NAMIC
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

317.875.5250 | [F] 317.879.8408
3601 Vincennes Road, Indianapolis, Indiana 46268

202.628.1558 | [F] 202.628.1601
20 F Street N.W., Suite 510 | Washington, D.C. 20001

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Phillip Barlow
Associate Commissioner
D.C. Department of Insurance, Securities & Banking
1050 First Street, NE Suite 801
Washington, DC 20002

RE: NAMIC Comments—DISB Request for Comment—*Report on Market Conduct Examination: "Evaluating Unintentional Bias in Private Passenger Automobile Insurance"*

Associate Commissioner Barlow,

The National Association of Mutual Insurance Companies (NAMIC) appreciates the opportunity to provide additional comments about the draft report on evaluating supposed unintentional bias in private passenger automobile insurance policies in the District of Columbia.

NAMIC is the largest property and casualty insurance trade association in the country, with nearly 1,500 local, regional, and national member companies who write more than two-thirds of the U.S. private passenger auto insurance market.

NAMIC and our members continue to believe firmly in the fair treatment of all policyholders. Mutual insurance companies are built on the notions of community and inclusivity, and the mutual model has a long and proud history of service to minority communities. NAMIC and our members are adamantly opposed to discrimination based on race and unfair discrimination in general, and we support legislative policies to prevent these practices, many of which are already established in the D.C. Insurance Code.

NAMIC appreciates the opportunity to review and respond to other comments submitted to DISB on the draft report. As such, we would like to address and clarify some of the comments DISB on the draft report:

1. **Report Findings**
   Nowhere in the draft report is there evidence of unintentional bias in the D.C. auto insurance market. The draft report's initial finding is that inferred Black drivers pay 1.46 times more premium than inferred white drivers, while representing 2.38 times the average loss costs. As the report acknowledges, "the race gap is mirrored – in fact,

magnified – in actual losses; so, while inferred Black drivers pay higher premiums they represent higher costs to insurers." From an actuarial perspective this shows that inferred Black drivers are not being overcharged for the risk they represent. The draft report also stated, "the goal, to be clear, is not to expect the exact same premiums for the different race groups". Therefore, any commentary stating that discriminatory underwriting policies were evidenced in the report is incorrect.

2. **Risk Based Pricing**

Insurance is priced differently than virtually every other product available to consumers - the actual cost of providing insurance is unknown at the time it is offered. Because of the prospective nature of insurance pricing, insurers rely on actuarial science to most fairly ascertain and measure future risk predictors, then match pricing to the risk of loss as accurately as possible. These efforts help ensure that less risky drivers are not overcharged to subsidize riskier drivers. Correlating price to risk also protects insurer solvency, the ultimate aim of insurance regulation.

The appropriate metric for unfair discrimination in the District is established by D.C. Code §31-2231.13, which prohibits unfair discrimination between insured property having similar insuring or risk characteristics. At no point is this legal standard or definition referenced in the report. To the extent it informs further discussion and next steps by the Department, it is worth noting that both academic and regulatory bodies have conducted extensive reviews of pricing and protected classes in the past, generally finding no evidence of unfair discrimination by insurers with respect to pricing.[1]

The fair pricing of insurance is based on the risk of loss, and the more accurately an insurer can understand the risk of loss, the more accurate prices will be. The converse is also true—removing factors that are known to be accurate predictors of loss will make prices less accurate. Less accuracy forces policyholders to pay more, because they ultimately are paying for risks posed by others.

Rating factors are not "penalties." In fact, policyholders benefit from risk-based pricing factors as insurers compete for business and ensure that lower-risk policyholders are not unfairly forced to subsidize higher-risk policyholders. Rating factors that enhance accuracy should be embraced, not prohibited. We agree that rating factors should be responsibly and continuously considered and validated for accuracy, credibility, and objectivity by insurers, actuaries, and policymakers. What is already certain, however, is that ***more*** risk-based factors improve fairness and

[1] See e.g. Robert Klein: *Matching Rate to Risk: Analysis of the Availability and Affordability of Private Passenger Automobile Insurance* https://www.namic.org/pdf/publicpolicy/210202_naic_study.pdf;

consumer choice by enhancing the accuracy of a consumer's overall risk assessment. Eliminating valid factors not only necessarily creates cross-subsidies that enable high risk insureds to pay less than lower risk insureds, but it does nothing to reduce the overall costs of coverage. Additionally, the removal of any proven factor necessarily increases reliance on other remaining factors, while reducing accuracy and making coverage unaffordable for more consumers. NAMIC supports insurers' ability to continue to use factors that are objective, actuarially sound, and have credible, statistically significant correlation to expected losses.

3. **References to other studies**
Any reports and studies cited in comments should be credible and referenced accurately with clearly disclosed and available methodology. For example, one comment references a 2017 ProPublica article that has been found by the Missouri Department of Insurance to be "marked by profound methodological deficiencies. It will merely be noted here that ProPublica got the analysis entirely wrong".[2]

Additional studies referenced in comments offer conclusory assertions that are not only unsubstantiated by extensive scholarship around insurance rating factors and risk-based pricing, but they are also at odds with the fundamental tenets of insurance law, that correlation to risk of loss rather than causation is an appropriate controlling standard.[3][4] Both the Actuarial Standards Board and the Casualty Actuarial Society emphasize the importance of correlations of risk characteristics, not causation.[5]

4. **Additional Analysis**
Finally, some comment submissions urge DISB to do further study and analysis. This study, however, provides no reason for further study as this draft report did not find evidence of unintentional bias in the D.C. auto insurance market.

Any consideration of further research needs to be balanced with the obligation data calls of this type create for insurers and regulators.

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[2] See Private Passenger Automobile Insurance: A Review of the Market in Missouri - PrivatePassengerAutomobileInsuranceInMOrev7-11-2017.pdf,

[3] See Lars Powell: *Risk-Based Pricing of Property and Liability Insurance*, Journal of Insurance Regulation, available at: https://content.naic.org/sites/default/files/jir-za-39-04-el-risk-based-pricing.pdf,

[4] See D.C. Code §31-2703 (2)(A)(i)

[5] See Actuarial Standard of Practice #12: Risk Classification - https://www.actuarialstandardsboard.org/wp-content/uploads/2014/02/asop012_132.pdf and Casualty Actuarial Society Statement of Principles: https://www.casact.org/sites/default/files/2021-06/Statement%20of%20Principles%20Regarding%20P%26C%20Casualty%20Insurance%20Ratemaking_2021.pdf

Conclusion

The Private Passenger Auto insurance market is driven by the effort to match rate to risk, above all else. Matching rate to risk promotes accuracy, which is the essence of insurance fairness – a system in which insurers most accurately price risk and charge a commensurate premium.

Thank you for the opportunity to provide additional comments. We look forward to our continued efforts moving forward on initiatives to best ensure that private passenger auto coverage is available to residents of the District of Columbia at a rate that matches their risk of loss, something we believe can be best achieved through a system predicated on and sustained by fair and equal treatment, using objective standards of risk assessment for every applicant and policyholder.

Sincerely,

Matthew Overturf

Matthew Overturf
Regional Vice President – Ohio Valley / Mid-Atlantic Region
National Association of Mutual Insurance Companies
c: 937.935.0432 | moverturf@namic.org