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July 26, 2016

Washington State Office of Insurance Commissioner
Commissioner Mike Kreidler
Attention: Stacey Middleton
PO Box 40255
Olympia, WA 98504-0255

RE: Proposed Regulation – WAC 284-24-140, Clarifying data use for setting P&C premiums (R2015-15) - NAMIC's written testimony

Dear Ms. Middleton:

The National Association of Mutual Insurance Companies (NAMIC) respectfully submits to the Office of the Insurance Commissioner for reconsideration the following comments in regard to *WAC 284-24-140, Clarifying data use for setting P&C premiums (R2015-15)*. NAMIC believes that the proposed regulation will needlessly increase administrative costs for insurers, result in unnecessary consumer confusion and complaints to insurers and the OIC, and likely have a detrimental impact upon insurance costs for many consumers.

NAMIC is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 138 members who write property/casualty in the State of Washington, which represents 48% of the insurance marketplace.

NAMIC appreciates and shares the OIC's desire to ensure that insurance rates are commensurate with an insurance consumer's risk of loss exposure. However, from a public policy and pro-consumer regulatory standpoint, the proposed amendments are unnecessary and likely to do more harm than good for insurance consumers.

Since NAMIC has tendered written comments on May 4th and June 3rd on the "stakeholder draft" proposed regulation, we respectfully incorporate by reference those comments into NAMIC's formal testimony for the July 26th rulemaking.

Additionally, we respectfully submit the following questions, comments, and suggested revisions for consideration:

1) NAMIC respectfully requests clarification in regard to Section #4 of the proposed regulation -

The draft regulation states, "[w]hen an insurer updates an insurance score, it must update all information necessary to determine the insurance score, rather than partially update the score." [Emphasis added]

To start with, NAMIC respectfully requests that the OIC provide needed clarity as to what is meant by a "partially updated" score.

NAMIC assumes that the OIC is not intending to require insurers to actually update as part of the credit history rescoring all policyholder information, like the policyholder's name, address, DOB, etc. before reordering the renewal insurance score. The language of the proposed regulation is unclear and could be interpreted as requiring an insurer to formally update *all* information previously provided by the policyholder and currently on file with the insurer. NAMIC believes that insurers should not be required to have to contact each policyholder repeatedly to

update this originally provided information. Such a requirement would create an unnecessary administrative expense and staffing burden for insurers, and result in needless inconvenience to policyholders.

Additionally, the proposed regulation could be read to require insurers to have to update all policyholder information contemporaneously with the rescoring of the credit history within the three year time-line. NAMIC believes that insurers should have the reasonable flexibility to update these non-credit history components of the insurance score at a time most convenient and cost-effective for the individual insurer and their policyholders, so long as they are updated within that three year time-line. For example, an insurer should be allowed the discretion to update non-credit history components annually if that works best for the insurer and the credit history information every three years if that approach better addresses the administrative costs and staffing needs of the insurer.

2) NAMIC respectfully submits the following comments and suggested revisions to Section #3 of the proposed rulemaking -

The proposed regulation uses the term “tiers”, which is terminology different from other Washington statutes and regulations pertaining to the use of credit history information. For the sake of consistency and clarity, NAMIC respectfully recommends that the proposed regulation use the well-established terminology of “rating tiers” rather than “tiers”, so that there is no potential confusion as to whether the OIC intends that the word “tiers” be interpreted by insurers as something different from “rating tiers”.

3) NAMIC respectfully requests clarification in regard to Section #5 of the proposed rulemaking -

The draft regulation states, “[a]n insurer’s filed manual of rates and rules should specify the conditions under which insurance scores will be updated and how updated insurance scores will be used in the calculation of renewal premiums.” [Emphasis added]

NAMIC believes that the OIC needs to clarify what the phrase “conditions under which insurance scores will be updated” means. Does the OIC want insurers to specifically state in the filed manual of rates and rules when the insurer plans to update the renewal insurance score (e.g. insurer will update insurance score every three years)? If so, NAMIC believes that it makes sense to clearly state that in the regulation as opposed to using the term “conditions”, which is ambiguous and could arguably be interpreted to require disclosure of detailed internal underwriting and administrative practices.

Additionally, NAMIC is concerned that the phrase “how updated insurance scores will be used in calculation of renewal premium” could arguably be interpreted to require the insurer to disclose its proprietary, trade-secret insurance scoring methodology in the filed manual of rates and rules. Consequently, NAMIC respectfully requests that this provision be removed from the proposed regulation or revised to make it clear that insurers are not required to disclose their proprietary, trade-secret rating and underwriting practices.

NAMIC is also concerned that Section 5 states that if the manual does not specify such “conditions”, the insurer must update the CBIS every renewal period. What is the public policy rationale for including this provision in the proposed regulation? It appears to be punitive in nature and not tied to any regulatory necessity. Further, how would this embedded annual rescoring requirement interact with the broader three years rescoring requirement?

4) NAMIC respectfully requests clarification in regard to Section #7 of the proposed rulemaking -

Section 7 states, “[n]othing in the section prohibits an insurer from: b) Using a rating system that includes insurance scores in the rating of new business but not in the rating of renewal business.”

How exactly would an insurer who used credit history information with their new business then go about not using credit at renewal, so that they are in compliance with Section 3(a), which states, “[f]or the purposes of this section, if an insurance score is used to assign a policy to a particular class or tier, then it is considered using an insurance score to calculate renewal premiums if the insurer: (a)[l]eaves that policy in the same class or tier upon renewal; ...”?

Would an insurer need to create and use a different class or rating tier model for renewals where credit history information was not considered? The way the proposed regulation is written, if a renewal policyholder is left in the same rating tier at renewal, the insurer is still required to update the insurance score so as to comply with the regulation. In effect, whenever a policyholder ends up in the same rating tier at renewal, the insurer will need to go through the entire credit-based insurance scoring process so that they may be able to demonstrate to the OIC that the insurer did not use CBIS in the rating of the renewal business.

5) NAMIC respectfully requests that the effective date of the proposed regulation be extended to January 1, 2018 -

The OIC's regulatory proposal will require insurers to have to update their algorithms, computer applications, models or rating processes for each policyholder renewal and will require insurers to update a lot of other policyholder information at renewal time. Since the OIC is proposing a significant change to the current regulation on the use of credit histories and credit information, NAMIC believes that it is reasonable and appropriate to provide insurers with necessary time to properly adopt internal processes required to comply with the proposed regulation.

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,



Christian John Rataj, Esq.
NAMIC Senior Director – State Affairs, Western Region