

# Current and Future Public Policy Considerations

# Antitrust Notice

- The Casualty Actuarial Society is committed to adhering strictly to the letter and spirit of the antitrust laws. Seminars conducted under the auspices of the CAS are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.
- Under no circumstances shall CAS seminars be used as a means for competing companies or firms to reach any understanding – expressed or implied – that restricts competition or in any way impairs the ability of members to exercise independent business judgment regarding matters affecting competition.
- It is the responsibility of all seminar participants to be aware of antitrust regulations, to prevent any written or verbal discussions that appear to violate these laws, and to adhere in every respect to the CAS antitrust compliance policy.



# About the Academy



AMERICAN ACADEMY  
*of* ACTUARIES

- The American Academy of Actuaries is a 20,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues.
- The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

For more information, please visit:

[www.actuary.org](http://www.actuary.org)

# Presenters

## Panelists

Will Davis, MAAA, FCAS – South Carolina Department of Insurance

Rich Gibson, MAAA, FCAS – Senior Casualty Fellow, American Academy of Actuaries

Rob Fischer – Casualty Policy Analyst, American Academy of Actuaries



# SC DOI

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**WHERE PROTECTION & REGULATION MEET**

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**Will Davis FCAS MAAA  
Property & Casualty Actuary**

**WDavis@doi.SC.gov  
May 8, 2024**

# About the SCDOI:

The mission of the South Carolina Department of Insurance (SCDOI) is to protect insurance consumers, the public interest, and the insurance marketplace by ensuring the solvency of insurers; by enforcing and implementing the insurance laws of this State; and by regulating the insurance industry in an efficient, courteous, responsive, fair, and equitable manner.

## Areas of Focus:

- Auto & Home
- Workers Comp & Medical Professional Liability
- Flood/Disaster
- Life
- Health
- Long-term Care
- Insurance Fraud
- Financial Literacy



# About the SCDOI:

Michael Wise ACAS MAAA – Agency Director

Gwen Fuller-McGriff – Deputy Director (Legal, Legislative, External), General Counsel

Geoffrey Bonham – Deputy Director (Financial Regulation & Solvency)

Diane Cooper – Deputy Director (Product Regulation, Consumer Services)

Tommy Watson – Deputy Director (Administration)

Josh Underwood – Director (Insurance Fraud)



# NAIC Involvement

- **Property and Casualty Insurance (C Committee)**
  - CASTF, Catastrophe Insurance, WC, Title, others
- **Financial Condition (E Committee)**
  - Capital Adequacy TF, P&C RBC TF, Catastrophe Risk SG, Reins, RRG, others
- **Innovation, Cybersecurity, and Technology (H Committee)**
  - Big Data & AI WG, Tech/Innov/InsTech WG, 3<sup>rd</sup> Party Data/Models TF, others

# SC Rate and Market Regulation

- Data Calls
- Rate Filings
- Actuarial Analysis
- Pricing actuary involvement helps
- Data & selected trend components
- Reliance

# Personal Lines Product Issues/Concerns



## Homeowners Issues

- Increasing Reinsurance Costs (net cost, fixed % of premium)
- Availability - Replacement Cost of Roof

## Advancing Technology in U/W & Pricing

- Newer technology replacing physical inspections (satellites, drones)
- Expansion of 3<sup>rd</sup> party data collection (auto mfrs, other providers)
- Transparency & Data Privacy for policyholders
- Oversight of 3<sup>rd</sup> party data providers



# SCDOI

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**WHERE PROTECTION & REGULATION MEET**

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**Contact us at:**  
1-800-768-3467  
Or  
803-737-6180

**We are located at:**  
1201 Main Street  
Suite 1000  
Columbia, SC 29201

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# American Academy of Actuaries

Rich Gibson, MAAA, FCAS

Rob Fischer

# Corporate Governance

- The structure of rules, practices, and processes used to direct and manage a company.
- Involves balancing the interests of a company's stakeholders,
  - such as shareholders, senior management, customers, suppliers, lenders, the government, and the community.
- The basic principles of corporate governance are accountability, transparency, fairness, responsibility, and risk management.
- A company's board of directors is the primary force influencing corporate governance.

# Executive Order 14110 Safe, Secure, and Trustworthy AI

- October 30, 2023
- Administration places the highest urgency on governing the development and use of AI safely and responsibly, and is therefore advancing a coordinated, Federal Government-wide approach to doing so.
- Aimed at executive departments and agencies
- NIST is charged with continuing to promote AI industry standards

# Executive Order 14110 Safe, Secure, and Trustworthy AI – Eight Guiding Principles

- Artificial Intelligence must be safe and secure.
- Promoting responsible innovation, competition, and collaboration will allow the United States to lead in AI and unlock the technology's potential to solve some of society's most difficult challenges.
- The responsible development and use of AI require a commitment to supporting American workers.
- Artificial Intelligence policies must be consistent with my Administration's dedication to advancing equity and civil rights.

# Executive Order 14110 Safe, Secure, and Trustworthy AI – Eight Guiding Principles (cont.)

- The interests of Americans who increasingly use, interact with, or purchase AI and AI-enabled products in their daily lives must be protected.
- Americans' privacy and civil liberties must be protected as AI continues advancing.
- It is important to manage the risks from the Federal Government's own use of AI and increase its internal capacity to regulate, govern, and support responsible use of AI to deliver better results for Americans.

# Executive Order 14110 Safe, Secure, and Trustworthy AI – Eight Guiding Principles (cont.)

- The Federal Government should lead the way to global societal, economic, and technological progress, as the United States has in previous eras of disruptive innovation and change.

# NIST AI Risk Management Framework

- [AI RMF 1.0](#)
- Released in January 2023
- Wholistic view/discussion of managing risk associated with AI
- Framework is intended to be voluntary, non-sector specific

# NIST AI Risk Management Framework

- Key terms:
  - AI Actor - “those who play an active role in the AI system lifecycle, including organizations and individuals that deploy or operate AI” OECD (2019)
  - TEVV - test, evaluation, verification, and validation
- “Core concepts in responsible AI emphasize human centricity, social responsibility, and sustainability.”
- “AI risk management can drive responsible uses and practices by prompting organizations and their internal teams who design, develop, and deploy AI to think more critically about context and potential or unexpected negative and positive impacts.”

# NIST AI Risk Management Framework

- “the goal of the AI RMF is to offer a resource to the organizations designing, developing, deploying, or using AI systems to help manage the many risks of AI and promote trustworthy and responsible development and use of AI systems.”
- “Characteristics of trustworthy AI systems include: valid and reliable, safe, secure and resilient, accountable and transparent, explainable and interpretable, privacy-enhanced, and fair with harmful bias managed.”
- Four core functions: Govern, Map, Measure, and Manage

# NIST Risk Management Framework (RFM) Core



## Governance

- Implements a culture of risk management over the life of AI systems: design, develop/acquire, deploy and evaluate;
- Aligns AI risk management and AI system design with organizational principles, policies, and strategic priorities;
- Ensures competent individuals are involved in acquiring, training, deploying, and monitoring AI systems; and
- Addresses legal and other issues concerning use of third-party software or hardware systems and data.

# FEMA/NFIP

- FEMA periodically updates a publication called [The Watermark](#) which contains numerous facts about the National Flood Insurance Program (NFIP). Latest available is as of yearend 2022.
- Key facts:
  - \$1.28 trillion insurance in force
  - Probable Maximum Annual Loss (PML) is over \$45 billion
  - Policy count in excess of 4.5 million
  - \$20.5 billion debt with the Treasury
  - Currently authorized through September 30, 2024.
  - Last multi-year extension expired September 30, 2017.
  - 30 short-term extensions since then.

# FEMA/NFIP

- FEMA has put forth a 17-point legislative proposal for NFIP in 4 categories
  - Sound Financial Framework
  - Risk Analysis and Communication
  - Improve Resilience
  - Technical and Operational Enhancements

# FEMA/NFIP

- Risk Rating 2.0
  - Fully implemented as of April 1, 2023
  - Introduction of new rating variables aimed at better reflecting risk of flooding
  - Still includes annual premium increase cap of 18%
  - Full risk rates over time as capped policies are on a “glide path” to full cost basis

# FEMA/NFIP

- Academy Resources:
  - THE NATIONAL FLOOD INSURANCE PROGRAM: CHALLENGES AND SOLUTIONS: September 2020
  - THE NATIONAL FLOOD INSURANCE PROGRAM: CHALLENGES AND SOLUTIONS: September 2019

# NAIC AI Model Bulletin

- On December 4, 2023, the NAIC adopted the model bulletin on the use of AI systems by insurers.
- Sets forth the expectations as to how insurers will govern and use AI technologies
- Model for states to adopt/implement
- Bulletin refers to the [Principles of Artificial Intelligence](#) previously adopted by the NAIC
- Bulletin applies to all forms of insurance

# NAIC AI Model Bulletin

- “[I]t is important that Insurers adopt and implement controls specifically related to their use of AI that are designed to mitigate the risk of Adverse Consumer Outcomes”
- Insurers required to maintain a written AIS program for responsible use of AI Systems
- Bulletin provides a detailed discussion of AIS program guidelines (General, Governance, Risk Management, reliance on Third-Parties)

# NAIC AI Model Bulletin

- Bulletin uses the term “bias” several times
- No definition of bias is included therein
- The term was subject to considerable open discussion at H Committee public meeting with intent of replacing the term
- No suitable replacement was identified, and the bulletin was adopted

# U.S. Guidance on AI and Bias

## NIST Risk Framework

[Artificial Intelligence Risk Management Framework \(AI RMF 1.0\)](#)

January 26, 2023

Voluntary resource for designing, developing, deploying, and using AI systems to manage AI risks and promote trustworthy and responsible AI.

## Executive Order

[Executive Order 14110](#)  
Safe, Secure, and Trustworthy  
Development and Use of  
Artificial Intelligence  
October 30, 2023

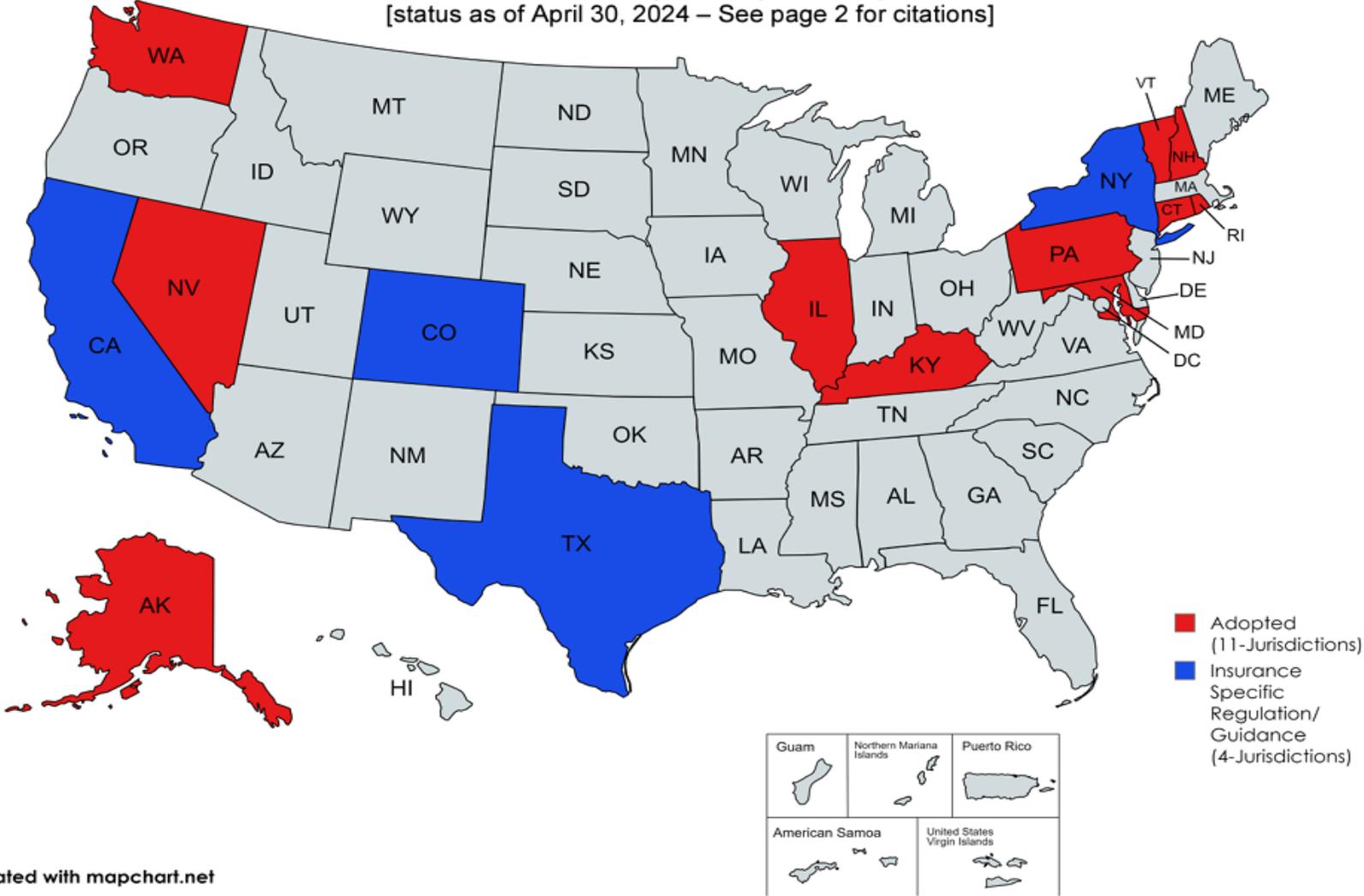
Advances a federal government coordinated approach to governing the development and use of AI safely and responsibly.

## NAIC Model Bulletin

[NAIC Model Bulletin: Use of Artificial Intelligence Systems by Insurers](#)  
December 4, 2023

Sets expectations on how insurers will govern the development/acquisition and use of certain AI technologies.

Implementation of NAIC Model Bulletin:  
 Use of Artificial Intelligence Systems by Insurers  
 [status as of April 30, 2024 – See page 2 for citations]



Created with mapchart.net

This map represents state action or pending state action addressing the topic of the model. This map does not reflect a determination as to whether the pending or enacted legislation contains all elements of the model or whether a state meets any applicable accreditation standards. See the reference list on the next page.

<https://content.naic.org/sites/default/files/inline-files/AI%20Model%20Bulletin%20-%20April%202024.pdf>

# Colorado SB21-169 Protecting Consumers from Unfair Discrimination in Insurance Practices

- Bill signed to law in July 2021.
- Law prohibits unfair discrimination in insurance on the basis of race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identify, or gender expression.
- Also prohibits insurers from using external consumer third-party data or predictive models, or algorithms that use third-party data for the use of unfair discrimination.

# Colorado SB21-169 Protecting Consumers from Unfair Discrimination in Insurance Practices

- The Colorado Division of Insurance is working through how the law will be implemented
- Colorado is working through each line of insurance sequentially
- Colorado held a number of stakeholder meetings on private passenger auto insurance underwriting in 2023

# Other States Following Colorado's Lead

Bills introduced in 2024

- [Illinois House Bill 4611](#) – Only applies to auto insurance
- [Louisiana House Bill 673](#)
- [New York Assembly Bill 8369](#)

# NY Proposed Circular letter

- On Jan. 17, 2024, the New York Department of Financial Services released and requested comments on a [proposed circular letter](#), “Use of Artificial Intelligence Systems and External Consumer Data and Information Sources in Insurance Underwriting and Pricing”
  - Purpose: Critical that insurers who use AI establish a proper governance and risk management framework to mitigate the potential harm to consumers and comply with all relevant legal obligations.
  - Academy provided [comments](#) on March 17<sup>th</sup>.

# NY Proposed Circular letter

- The Fairness Principles include discussion of proxy assessment
- In the Analyzing for Unfair or Unlawful Discrimination section
  - quantitative and qualitative assessment: able to explain how the insurer's AI System (AIS) operates and the intuitive logical relationship between external consumer data information sources (ECDIS) and other model variables with an insured or potential insured.
- Insurers that use ECDIS or AIS should formalize their development and management in written policies and procedures.
- Insurers retain responsibility for understanding any tools that were developed or deployed by third-party vendors and ensuring such comply with all applicable laws, rules, and regulations.

# D.C. DISB Initiative to Evaluate Unintentional Bias in Private Passenger Automobile Insurance

- District of Columbia Department of Insurance, Securities and Banking (DISB) have been studying unintentional bias in auto insurance since 2020.
- Conducted a data call in 2023, results have been collected and results are pending release from the DISB

# Academy Engagement

- [Comment Letter on NY Proposed Circular on AIS and ECDIS in Insurance Underwriting and Pricing](#) (Mar. 2024)
- [Comment Letter to Colorado Division of Insurance](#) (Dec. 2023)
- [Presentation at Colorado Stakeholder Meeting](#) (Aug. 2023)
- [Comment Letter to DISB on Data Call](#) (Jan. 2023)
- [Comment Letter to DISB on Review of Automobile Insurance for Unintentional Bias](#) (Aug. 2022)

# Questions?

# Thank You

For more information on the American Academy of Actuaries,  
please contact

**Rob Fischer, Casualty Policy Analyst**

[fischer@actuary.org](mailto:fischer@actuary.org)