

September 17, 2021

Rules Coordinator  
Office of the Washington Insurance Commissioner  
P.O. Box 40255  
Olympia, WA 98504-0255

**RE: Matter R 2021-07**  
**Comments on OIC Second Stakeholder Draft**  
*Submitted via email*

Dear Commissioner Kreidler:

In previous correspondence, both the **Northwest Insurance Council** and the **National Association of Mutual Insurance Companies** have provided comments in opposition to the proposed permanent (3-year) rules prohibiting the use of credit-based insurance scores by property & casualty insurers for underwriting and rating personal auto, homeowners, renters and other lines of insurance in Washington.

As you know, our associations, as well as our trade association colleagues at the **American Property & Casualty Insurance Association**, on behalf of our member insurance companies – who collectively represent the vast majority of P&C insurance policies in force in Washington today – continue to oppose the proposed rules to ban the use of credit-based insurance scores. They are accurate and predictive, proven actuarially sound (as evidenced by 20 years of OIC approvals of submitted insurer rate filings that have routinely and repeatedly included rates based in part on credit-based insurance scores), and, according to studies conducted by insurance regulators and others, reduce costs for more than half of insurance consumers.

This correspondence also provides additional comment regarding the proposed Second Stakeholder Draft of the proposed rules. While we oppose the rules as noted, we also wish to express appreciation for the opportunity to provide comment specific to the stakeholder draft.

In addition to all of the reasons stated in opposition to the first stakeholder draft for R 2021-07, the trades and our members oppose the addition of the new Section (7) in the second draft for R 2021-07 and ask that Section 7 be stricken from the second stakeholder draft. Section 7 applies to insurers that used credit history to place coverage with a particular affiliated insurer or an insurer within a group of insurance companies. The new section reads:

(7) This subsection applies to insurers that have used credit history to place insurance coverage with a particular affiliated insurer or insurer within a group of insurance companies. For each such impacted insured, the insurer: (a) Must provide the following notification to each impacted insured, no later than 60 calendar days prior to renewal: “You are currently insured with [COMPANY NAME] at least in part due a Credit-based Insurance Score. You may also be eligible for coverage in one or more of our affiliated companies, which may provide a more competitive premium or broader coverage options. Other non-credit-based insurance score factors may still apply. Please contact your Agent or our customer service representatives directly at [PHONE NUMBER] for assistance.”; (b) Must allow an impacted insured to

either secure quotes, or secure coverage, or both, in any affiliated insurer, and (c) May not consider the prior company when determining premiums for impacted insured.

The addition of Section 7 greatly expands the rule and retroactively impacts applications and placement of customers that was determined **prior to** the effective date of the June 20, 2021 Emergency Rule. The addition of Section 7 would have several negative, and likely, unintended consequences on Washington consumers, insurers, agents and the OIC.

Section 7 can negatively impact consumers by causing them to lose company-specific longevity discounts. If an “affiliate” or an insurer within a “group of companies” used credit for company placement prior to the effective date of the Emergency Rule, Section 7 requires insurers to contact those customers and offer them quotes in “one or more” of the insurer’s **other** affiliated companies. This could cause existing policyholders to lose their longevity discount if they chose to move to a company’s different affiliate. The addition of Section 7 would cause additional churn in the Washington marketplace already fragile as a result of turmoil caused by the Emergency Rule. The additional churn caused by Section 7 would now be **within** an insurance company resulting in consumer confusion.

From an insurer’s perspective, it would be impossible to comply with the retroactive nature of Section 7. Section 7 would create a need to retroactively contact customers who have already paid premium for the next 6 months. Under the Emergency Rule, the effective date for new business was June 20, 2021, and for renewals it was on August 19, 2021. Auto renewals have begun processing. The addition of Section 7 also creates significant challenges for agents requiring unnecessary quoting for any existing customer using the new business model in “any affiliated insurer.” Agents are already inundated with policyholders contacting them as a result of the dramatic and unexpected rate increases caused by the removal of CBIS as a result of the Emergency Rule.

Finally, the proposed prescriptive language “Please contact your Agent or our customer service representatives directly at [PHONE NUMBER] for assistance” is problematic because it fails to contemplate the differing business models of insurers operating in the state of Washington. Some insurers put the agent in a key role in addressing customer needs and assisting them with questions, while other insurers direct customers to contact the company through a central call center. If Section 7 remains, the OIC should allow insurers flexibility in the language used in the notice that best suits their business model.

In addition to the negative impact on consumers, insurers and agents, Section 7 is ambiguous and may result in additional questions for the OIC. For example, subsection 7(c) indicates the insurer may not consider “the prior company” when determining premiums. It is unclear what “prior company” this references, an affiliate or another company that the customer was insured with when determining the original placement. Also, the rule is unclear as to “what” can’t be considered from the “prior company.” Additionally creating confusion is the requirement insurers “must provide” notification “no later than 60 calendar days prior to renewal” but the rule fails to identify when this new notice must be sent and/or if this notification can simply be added to the customer’s renewal notice.

If the OIC disregards all of the concerns identified with the proposed Section 7 and refuses to strike it from the second draft, the following edits are recommended (please note our recommendation that the **highlighted section** of language allow a company to offer either the Agent/phone reference, or the

(insurer) Customer Service Representative/phone reference, or both, depending on the contractual relationships the insurer has with their agency distribution channels):

(7) This subsection applies to insurers that have used credit history to **adversely** place insurance coverage with a particular affiliated insurer or insurer within a group of insurance companies. **This does not apply to any existing policies that were placed in a particular affiliated insurer using credit history prior to June 20, 2021, and a renewal that processes on or after June 20, 2021.** For each such **adversely** impacted insured, the insurer must provide the following notification to each impacted insured **on their renewal notice**: “You are currently insured with [COMPANY NAME] at least in part due a Credit-based Insurance Score. You may also be eligible for coverage in one or more of our affiliated companies, which may provide a more competitive premium or broader coverage options. Other non-credit-based insurance score factors may still apply. Please contact your **[Agent] or [customer service representatives directly at PHONE NUMBER] for assistance.**”

Thank you for the opportunity to provide comment on behalf of our members. Please contact us if we can provide additional information.

Respectfully,

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