

Life Insurers Sinking in Quicksand as Regulators Scrutinize Non-Traditional Consumer Data Sources

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As previously reported in our October 9, 2018, client alert, the sands began shifting in late 2018 when the NAIC Big Data Working Group (Big Data WG) began questioning life insurer's use of big data after a LIMRA survey found that 50 percent of responding life insurers were already using some form of automated underwriting. At the Big Data WG's February 25 meeting, Chair Doug Ommen confirmed the group will continue to focus on the use of big data by life insurers, since "it has become commonplace to use models in life underwriting." Consumer representative Birny Birnbaum suggested that the Big Data WG investigate the potential for unfair discrimination in life underwriting and the use of big data for claims settlement and fraud detection. While the Big Data WG will finalize its 2019 priorities at the NAIC Spring National Meeting, it is clear life insurers will be unable to escape the regulatory sandpit.

And the NAIC is not the only regulator giving life insurers a sinking feeling. As reported in our January 29 client alert, the New York Department of Financial Services (NYDFS) released Circular Letter No. 1 (2019) titled "Use of External Consumer Data and Information Sources in Underwriting for Life Insurance." Letter No. 1 expresses the NYDFS' concerns with the use of external data sources and imposes significant burdens on life insurers using external data and algorithmic underwriting.

There is no end to the quagmire in sight as regulators will continue to examine life insurers' use of non-traditional consumer data sources and algorithmic underwriting, putting life insurer's use on shaky ground.