

March 15, 2019

Senator Mike Crapo, Chairman
Senator Sherrod Brown, Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510
Via electronic submission to submissions@banking.senate.gov

Re: Feedback on Data Privacy, Protection and Collection

Mr. Chairman Crapo and Ranking Member Brown,

Please accept these comments on behalf of the members of the National Association of Mutual Insurance Companies (NAMIC)¹ regarding the United States Senate Committee on Banking, Housing and Urban Affairs' request inviting feedback from interested stakeholders on the collection, use and protection of sensitive information by financial regulators and private companies.

NAMIC understands the Committee's interest in reviewing of how data is collected, used, and protected by financial regulators and by private entities. While considering the broader American landscape of technology, cybersecurity, consumer rights, and other aspects of complex data collection, NAMIC strongly encourages the Committee to take its time to fully understand all of the existing frameworks of laws and regulations currently in place, which can vary significantly from industry to industry. For example, based on the breadth and depth of existing consumer protections, our organization strongly encourages the Committee to reflect on the existing and robust nature of insurance regulation that has been in place for over one hundred and fifty years. There is always a substantial risk when legislation is drafted to apply broadly across many industries that any positive effect may be outweighed by the unintended negative consequences for particular sectors.

For years, insurance companies have been permitted to legally share information concerning potential policyholders and claimants to understand more fully with whom they are dealing. This information-sharing allows for appropriate, thorough, and cost-effective risk assessment and underwriting. Also, it is helpful in

¹ NAMIC is the oldest property/casualty insurance trade association in the country, with more than 1,400-member companies representing 41 percent of the total market. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies serve more than 170 million policyholders and write more than \$253 billion in annual premiums. Our members account for 54 percent of homeowners, 43 percent of automobile, and 35 percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.



supporting essential functions like detecting fraud (to identify situations in which a claimant files false claims or provides incorrect factual details).

While a number of measures have been discussed in the national and international discourse – such as returning all data ownership rights back to policyholders and mandating compulsory erasure of data – the Committee should be aware that some of this much-needed information-sharing comes without consumer consent and is vitally needed for insurers’ basic commercial operation. For instance, if an insurer would have to get consent to utilize data to investigate fraud, an absurd result would be created where a perpetrator could thwart investigations. Further, in many instances, insurers are required by law to retain documents for regulatory review and approval of conduct which prevents the ability to destroy or return documentation.

The insurance industry is one of the most highly regulated industries in the United States. A review of some of the federal and state regulations demonstrates the extent to which privacy and consumer protection are a key focus for our industry. As just one example, the state Model Unfair Trade Practice Act deals with the disclosure of private information of consumers and contemplates the necessary balance between privacy and operational business needs. Insurers are also subject to other broad investigatory and compliance authority vested with each state regulator.

Consequently, and in closing, NAMIC would respectfully suggest the Committee explore existing frameworks that are in place, regardless of anecdotal evidence, and ascertain if appropriate privacy protections already exist, particularly as pertains to the insurance sector and associated entities. NAMIC submits that there is more than ample consumer protection currently in place and in force. We support a stable business environment for the insurance industry so that duplicative regulations do not result in redundant or excessive costs be incurred that ultimately may harm consumers rather than protect their interests.

These comments endeavor to respond to the questions outlined in the Committee’s request for comment. NAMIC remains eager and interested in providing additional information to the Committee about the regulation of the insurance industry.

Best regards,

Jon Bergner
AVP – Public Policy and Federal Affairs
National Association of Mutual Insurance Companies