

Locke Lord QuickStudy: NAIC Exposes Draft Artificial Intelligence Model Bulletin ?

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On July 17, 2023, the NAIC released the [Exposure Draft](#) of the Model Bulletin on the Use of Algorithms, Predictive Models, and Artificial Intelligence Systems by Insurers. Written comments will be accepted by the NAIC through Tuesday, September 5, 2023 and should be submitted to [Miguel Romero](#).

The Draft Model Bulletin sets forth the insurance regulators' expectations of insurers using artificial intelligence systems ("AIS") and encourages insurers to implement and maintain a written AIS Program based on the insurer's assessment of the risks posed by its use of AIS. The Draft Model Bulletin is designed to ensure that insurers' use of AIS is accurate and complies with applicable law, including unfair trade practice laws. It encompasses four basic areas of best practices and guidelines addressing:

- AIS Program Guidelines
- Governance
- Risk Management and Internal Controls
- Third Party AIS

In doing so, the Draft Model Bulletin defines key terms such as Artificial Intelligence, AIS Systems, *etc.* Additionally, the Draft Model Bulletin provides guidelines for insurers regarding documentation of its AI System Governance, Risk Management and Use Protocols.

The Draft Model Bulletin contemplates that insurance regulators have authority to examine insurers' use of AIS and specifically states that:

an Insurer can expect to be asked about its governance framework, risk management, and internal ?controls (including the considerations identified in Section 3 [Risk Management and Internal Controls]), as well as questions regarding any ?specific model, AI System, or its application, including requests for the following kinds of information ?and/or documentation.

Insurers also should be prepared to respond to regulator inquiries regarding their use of AIS developed by third parties. Insurers are responsible for the third party AIS they are using and are encouraged to monitor and audit the AIS provided by third parties. The Draft Model Bulletin provides guidance for provisions that should be included in third party contracts.

The Draft Model Bulletin is intended to be risk based rather than prescriptive acknowledging that insurers will be able to demonstrate their compliance with applicable laws through various means.

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