

Title of exposure draft, exposure draft #, and link to draft

Comment Deadline: [Month, Day, Year]

Sample response to Exposure Draft

Instructions: Please review the exposure draft, and give the ASB the benefit or your recommendations by completing this comment template. Please fill out the tables within the section below, adding rows as necessary. Sample for completing the template provided at the following link:

Each completed comment template received by the comment deadline will receive consideration by the drafting committee and the ASB. The ASB accepts comments by email. Please send to comments@actuary.org and include the phrase 'ASB COMMENTS' in the subject line. Please note: Any email not containing this exact phrase in the subject line will be deleted by our system's spam filter.

The ASB posts all signed comments received to its website to encourage transparency and dialogue. Comments received after the deadline may not be considered. Anonymous comments will not be considered by the ASB nor posted to the website. Comments will be posted in the order that they are received. The ASB disclaims any responsibility for the content of the comments, which are solely the responsibility of those who submit them.

I. Identification:

Name of Commentator / Company
Leo Bakel

II. ASB Questions (If Any). Responses to any transmittal memorandum questions should be entered below.

Question No.	Commentator Response

III. Specific Recommendations:

Section # (e.g. 3.2.a)	Commentator Recommendation (Please provide recommended wording for any suggested changes)	Commentator Rationale (Support for the recommendation)
Draft sections 2.8 and 3.4	Remove/delete section 2.8 and related section 3.4; or otherwise, revise the definition in section 2.8 to: "2.8 UNINTENDED BIAS: Unintended bias occurs if the impacts or outcomes from the use of a risk classification framework result in unfair discrimination under the applicable law."	The exposure draft has unnecessarily created a new term and standard that contradicts and conflicts with insurance laws and regulations, which are the legal standards that apply for actuaries. The relevant legal standard in nearly all jurisdictions is that rates are not unfairly discriminatory if differences in rates reasonably reflect differences in expected cost, based upon risk characteristics. "Unintended bias" is a newly-created term, with a confusing definition, and without a clear purpose. As drafted the definition is far too broad and instead of bias, it appears to identify any correlations and related impacts.
Existing Section 3.2.1	Retain current language: The actuary should select risk characteristics that are related to expected outcomes. A relationship between a risk	The draft has removed language that provides long-established insurance, actuarial and legal standards for actuaries regarding risk characteristics and

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	<p>characteristic and an expected outcome, such as cost, is demonstrated if it can be shown that the variation in actual or reasonably anticipated experience correlates to the risk characteristic.</p> <p>Rates within a risk classification system would be considered equitable if differences in rates reflect material differences in expected cost for risk characteristics. In the context of rates, the word <i>fair</i> is often used in place of the word <i>equitable</i>.</p>	<p>expected outcomes. This language aligns with insurance law. No explanation or purpose for these extremely important changes has been given, nor have they even been pointed out clearly.</p>
Draft section 3.2.3	<p>Remove/delete: The actuary should have a rational explanation that the relationship between a risk characteristic and a risk measure is not obscure, irrelevant, or arbitrary</p>	<p>The draft has created standards that conflict with legal standards for actuaries, and which are vague and ambiguous. The current ASOP 12 standard of reflecting ‘material differences in expected cost’ is the clear and well-understood legal, insurance and actuarial standard.</p>
Draft section 3.2.3	<p>Remove/delete: Whether it is appropriate to use a risk characteristic may depend on societal, regulatory, and industry practices or may depend on the scope and context of the actuary’s work.</p>	<p>This language is unnecessary and serves no useful purpose. The exposure draft does not indicate a purpose for these standards, which are vague and ambiguous, and which could contradict and conflict with insurance law which requires that prices be cost-based.</p>
Draft section 3.5	<p>Remove/delete or revise to:</p> <p>“3.5 Restrictions Regarding Risk Characteristics —The actuary should review any restrictions, decided upon and imposed by the jurisdiction, upon risk characteristics which may be used in a risk classification framework.”</p>	<p>This draft section is unnecessary and does not serve a useful purpose.</p>

IV. General Recommendations (If Any):

Commentator Recommendation (Identify relevant sections when possible)	Commentator Rationale (Support for the recommendation)
<p>With good intentions, the exposure draft seems to have exceeded the purpose and scope and authority of this ASOP, by introducing new terms and requirement standards that would contradict and conflict with insurance law and established existing standards and requirements.</p> <p>More specifically but without getting into the section-by-section edits which are also provided with this submission in part III, I suggest that the two most important changes needed</p>	<p>Cost-based pricing is a fundamental insurance and actuarial principle, and allows the benefits of the insurance process to flow to all consumers. Whenever insurance can be made available at cost-based prices, the insurance process allows individuals to live in their own homes, drive cars, and to protect their futures, for a few examples. That is why states have enacted laws and regulations which define unfair discrimination in the specific context of insurance pricing, and which require that prices must be based upon expected future cost.</p>

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to the latest exposure draft are (1) to continue the critical and appropriate emphasis placed upon cost-based pricing, by retaining some of the related language that is in the current ASOP-12 and (2) to either delete section 2.8 and related section 3.4; -- or otherwise, to revise the definition in section 2.8 to:
“2.8 UNINTENDED BIAS: Unintended bias occurs if the impacts or outcomes from the use of a risk classification framework result in unfair discrimination under the applicable law.”

It is an unfortunate and saddening truth that insured financial risk is not distributed evenly across society and different groups, and some of the reasons for that are awful and abhorrent. The insurance process, particularly the risk assessment processes involved with pricing and underwriting, measures these risks, and thus the differences in insurance risk among different groups manifest themselves in different average prices for different groups.

For example, it is well known that in some geographical areas, median incomes are different than average. Some of those same areas also have different-than-average traffic congestion, and other differences in risk characteristics. These differences can be correlated with different rates of traffic accidents, and different frequency of insurance claims. Those areas have different-than-average insurance risk, and claim payment benefits to those areas are different than average. Insurance premiums then are also indicated to be different, commensurate with the risk and expected cost of providing insurance coverage.

De-emphasizing or preventing cost-based pricing is not an effective or appropriate actuarial response to address related societal issues. The insurance process and providers can help most by making products and coverage (and their benefits) available equally to all individuals at actuarially fair prices, based upon the expected cost of the product or coverage provided.

Some may believe that one or more certain risk characteristics which are in use today should not be used for insurance pricing, even if the characteristic(s) is permitted by law and correlated with expected cost differences. The framework of insurance pricing laws allows the states to prohibit the use of selected characteristics if the state finds that to be in its public's best interests. Some states have done exactly that, after appropriate debate and consideration. Actuaries can and should be available to help educate and inform those considerations, but it is not the role of the AAA or its members to make those choices for the individual states, nor to effectively create new law for the states through ASOPs like this.

For one example, if a state determines that insurance is unaffordable for some individuals, there are other ways to address that issue, other ways to design and provide help to those individuals who need it, without harming the insurance markets (and in turn harming the economy and society and its members). The AAA and its members are capable in this area and should be available to assist states in the design of such assistance programs, whenever they are desired by legislatures or regulators in the various jurisdictions.

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V. Signature:

Commentator Signature	Date
Leo Bakel	4/29/2024