

DFS Seeking Information on the Use of Personal Credit by New York Insurers

March 25, 2022

The New York Department of Financial Services (“DFS”) has issued information requests to most authorized insurers writing private passenger automobile, commercial automobile and homeowners insurance in the State of New York, seeking extensive and detailed information about their use of personal credit for underwriting and ratings. Insurers that received the insurance Law Section 308 request are required to provide information and supporting documentation to DFS by May 2, 2022, with each response signed and affirmed as true under penalty of perjury by an officer of the insurer.

The Section 308 letter requires companies to provide information to DFS regarding their credit scoring models, initial tier placement algorithms, consumer notifications and interactions, data analysis, and general views and observations regarding the use of personal credit scores as a predictive tool.

The use of personal credit scores in insurance has been under enhanced scrutiny recently as potentially resulting in unfair discrimination and is therefore a possible target for regulatory action. Debevoise has been watching this issue closely and recently discussed how insurers are using artificial intelligence (“AI”) and related legislative and regulatory developments, with a particular focus on the concept of “proxy discrimination” and how companies can deal with the emerging patchwork of AI-related laws and regulations across the United States. Links to these webcasts may be found [here](#) and [here](#).

We are prepared to help clients in interpreting the Section 308 letter, assist in coordinating responses, and act as a confidential clearinghouse for client questions.

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Please do not hesitate to contact us with any questions.



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