

FAQ for implementation of WAC 284-24A-088, 284-24A-089

What is CBIS?

This document uses CBIS as an abbreviation for credit-based insurance score.

Which types of insurance are impacted?

(Revised April 13, 2021) The emergency rule applies to personal auto, homeowners and renters coverage. Personal auto includes personal coverage for motorcycles, collector vehicles, antique autos, and RVs. Homeowners coverage includes personal dwelling property (whether submitted under TOI 040, 010, or 301), mobile homeowners, manufactured homeowners, and condominium owner's coverage. The rule does not apply to commercial lines, personal liability and theft coverage, earthquake coverage, personal inland marine coverage, farmowners coverage, or mechanical breakdown coverage.

Why does the emergency rule allow, but not require, neutral factors that vary by peril or coverage?

This wording is meant to accommodate insurers that currently have filed rating plans in which there are different sets of CBIS factors for each peril (in homeowners and renters filings) or for each coverage (in auto filings). To be flexible, the emergency rule allows these insurers to choose to apply either a single neutral factor or to apply a different neutral factor for each peril or coverage. Insurers with filed CBIS factors that do not vary by peril or coverage should only need a single neutral factor.

What are the rate filing requirements?

The emergency rule requires insurers to stop using credit history in premium calculations. Therefore, your filing needs to include changes to your rating plan to accomplish that. However, in order for OIC to process neutral factor filings promptly, we would prefer that filers minimize the complexity of these filings. Rating plans should be amended to include the neutral factor as an exception rule that temporarily supersedes your existing CBIS rules and factors. Filers should not include other changes to rates and rules that are not necessary for removing CBIS factors. The filing should include:

- The phrase "Remove the use of credit" in the Product Name field, the Project Name field, or the beginning of the Filing Description field in SERFF
- An exhibit showing the calculation of the neutral factor

- A rate/rule page with the neutral factor and stating that this factor will supersede the CBIS factors in your rating plan

Do not include unrelated changes to your rating plan. We will waive the usual requirement for a complete manual of rates and rules for these filings.

How should we calculate the neutral factor?

Total premiums for your book of business should not change due to the removal of CBIS factors. If your rating plan uses a policy fee or other fixed fee, you might need to adjust this calculation accordingly.

The neutral factor exhibit could show your actual distribution of in-force written premiums by credit-based tier compared to the hypothetical premium for each tier if CBIS factors were not applied. The neutral factor would then be the ratio of total actual premiums to total hypothetical premiums.

For technical reasons, we cannot calculate the neutral factor that way. What should we do?

In your filing, explain the technical issue and how you calculated the neutral factor or determined other changes to your rates needed to comply with the emergency rule. In reviewing your filing, OIC will seek to ensure that your filing removes the use of credit from premium calculations and results in no overall rate level change.

Can we include a complete rating plan overhaul in the neutral rating factor filing?

No. With credit scoring no longer allowed, we understand that insurers will wish to refresh their rating models to reflect the absence of credit information. However, the emergency rule requires that filings be limited to only changes required by the rule. This provision is necessary in order for OIC to process the neutral factor filings in a timely manner.

An insurer wishing to make other changes will need to first wait for its initial filings to remove credit to be approved, and then may submit a separate filing to make other changes. Given the limited time until premium calculations will be impacted by the emergency rule, OIC will prioritize filings submitted to only remove the use of credit. Filings involving other changes will not be prioritized. Subsequent filings involving additional changes will be reviewed in keeping with our standard review process.

When does the rule take effect?

The emergency rules itself takes effect immediately when it is filed. The prohibition on the use of credit history applies to new policies effective and existing policies processed for renewal on or after June 20, 2021. Filings to make the necessary changes must be submitted no later than May 6, 2021. For new business policies with coverage terms beginning on and after June 20, 2021, you must not use credit history to calculate premiums or use credit history for underwriting (including placement with an affiliate in a group of insurers). For renewal policies, the emergency rule applies to renewals processed

on or after June 20, 2021. Under WAC 284-24-115(1), you may use an effective date for renewal policies up to sixty days after the effective date for new business policies. This reflects the fact that insurers process a renewal policy well in advance of the date that renewal policy takes effect.

We used credit history in the past to determine in which of our affiliates each applicant will be offered coverage. Do we have to reevaluate these company placement decisions without using credit?

(Revised April 13, 2021) The emergency rule applies to company placement decisions made on or after June 20, 2021; it does not require insurers to reevaluate prior company placement decisions. If your normal process involves reevaluating company placement at each renewal, you will need to adjust this process such that it does not use credit history. But if you do not normally reevaluate company placement at renewal, the emergency rule would not require you to do so.

We use the term “company placement” to refer to the process of deciding which company – in a group of affiliated companies – a given applicant will be assigned to. “Company placement” is not the same as tier placement within a company or premium calculations within a company.

What happens to our other filings that are already under review?

OIC will continue to review existing filings, though filings submitted to comply with the emergency rule will be prioritized. Note that you must submit a new, separate, filing to remove credit from your rating plan; we will not accept amendments to existing filings for this purpose. If a pending filing involves changes to CBIS factors, the insurer might wish to consider withdrawing the filing or amending the filing to remove the changes to CBIS factors. Insurers should avoid amending existing filings in a way that significantly increases the complexity of the filing.

Our IT staff do not have time to program this change. Can we get an extension?

No. We cannot grant extensions to the dates specified in the emergency rule.

How do we calculate a neutral factor for a new program with little to no premium?

In such cases, using your in-force premiums to estimate the neutral factor would not make sense. Some other estimate of the neutral factor would be necessary, calculated such that the insurer’s overall rate level remains the same. Depending on the exact situation, it might be appropriate to consider the distribution of credit scores for the population of the state as a whole or to consider the assumptions made in the insurer’s original analysis submitted in support of its CBIS factors.

Since an emergency rule can last only 120 days, why does the rule say it lasts until three years after the state of emergency ends?

The OIC intends to pursue normal (non-emergency) rulemaking to make this rule “permanent”, as that term is understood under the Administrative Procedure Act, Chapter 34.05 RCW. The OIC expects the three-year timeframe to be included in the permanent rule. The emergency rule will automatically expire after 120 days unless either a permanent rule is adopted or the emergency rule is refiled under RCW 34.05.350.

What if a simple constant neutral factor won't work with our rating plan? For example, what if we apply one set of CBIS factors to an expense constant and another set of CBIS factors to the variable portion of the premium?

OIC understands that a single, constant neutral factor will not work in certain situations. In such a case, the insurer should seek to make minimally complex revisions to its rating plan to remove the use of credit history from all parts of the premium calculation, while not increasing or decreasing the total premiums for the insurer's book of business.

Can we apply premium capping to mitigate the premium changes due to removing credit? What if we have a currently active premium capping rule?

No. You may not submit a new premium capping rule to mitigate the premium changes resulting from removing credit from your rating plan. Existing capping rules can continue to apply, but in accordance with WAC 284-24-130(8), a previously filed capping rule cannot be used to cap premium changes resulting from a subsequent filing. Therefore, premium changes resulting from the removal of credit from your premium calculations cannot be capped. If you are unable to administer your capping rule in a manner that excludes premium changes resulting from the emergency rule, OIC would allow you to delete the premium capping rule in your neutral factor filing.

Added March 29, 2021:

Do we need to remove all credit-related rates and rules from our rating plan?

No. Instead of removing credit-related rates and rules, you should leave them in place in your rating plan, but file an additional rule that supersedes your CBIS factors. This will make it easier for OIC to review your filing and for you to revert back to using CBIS factors after the temporary prohibition on using credit ends. The filing you submit to comply with the emergency rule should include a single manual page showing the neutral factor and stating something like, “CBIS Override Rule: Apply the factor shown below to every policy instead of applying the CBIS factor. Rules 3.a through 3.e do not

apply as long as this CBIS Override Rule is in effect.” Ideally, no other manual pages should be included in your filing.

Added April 13, 2021:

Will our neutral factor rule automatically expire when the emergency rule terminates?

This depends on how your neutral factor rule is written. In order to set up your rule so that it only applies while the emergency rule is in effect, we suggest:

- Filing a neutral factor rule on a new rule page, with the rule functioning such that it overrides or supersedes your existing CBIS rating rules.
- Not making changes to any current manual pages, such as your base rate pages or CBIS rating factor pages.
- Including wording in your neutral factor rules stating that the rules only apply while the emergency rule is in effect.

Given the uncertainty about how long the emergency rule will be in effect, we advise writing your rules this way to avoid having to later submit another filing specifically to withdraw the neutral factor rules.

If a company submits its filing by May 6, when will OIC approve it? What action is the filing company expected to take if approval is delayed?

OIC cannot guarantee a specific approval date, since some parts of the filing review process are under the filer’s control, not OIC’s. OIC will prioritize filings submitted to comply with the emergency rule. Assuming filers provide minimally complex filings as discussed above, OIC intends to complete initial review of each such filing within four business days. Provided that filers respond promptly to any objections raised following OIC review, OIC believes there is sufficient time to process all the required filings. In the event that approval of an insurer’s filing is delayed, the insurer should contact OIC to discuss what actions to take. OIC will consider the circumstances leading to the delay and will focus on ensuring that CBIS rating is removed from premium calculations on time, even if filing details are still being worked out.

Is the use of credit information in new business tiering considered an underwriting decision, and if so, does the order only apply to new underwriting decisions after 6/20?

No. Tier placement is part of the premium calculation process; it is not just an “underwriting decision.” Under the emergency rule, insurers must rate each policy, including tier placement, without using credit information.

This question appears to be related to the question above about company placement. The wording of the answer to that question appears to have confused some readers, and we have clarified that answer by removing the phrase "underwriting decision."

If a policy is quoted and issued for new business prior to 6/20 with an effective date after 6/20 would we have to go in later and cancel/re-rate it?

For new business policies, the emergency rule applies based on the date policies take effect, regardless of when those policies were quoted. New business policies with effective dates on or after June 20, 2021 must be rated without the use of credit information. An insurer that used credit information to calculate the premiums for a new business policy that took effect on or after June 20, 2021 would be in violation of the emergency rule.

Can filings intended to be effective prior to May 6, 2021 be submitted for approval if they are not modifying the current use of credit whether in rating or underwriting?

Yes. Filings with proposed effective dates prior to May 6, 2021 (or even prior to June 20, 2021) can be submitted and do not need to comply with the emergency rule. Note, however, that OIC will need to prioritize filings submitted to comply with the emergency rule. Other filings will be reviewed in keeping with our standard review process.

Does the OIC plan to respond to credit neutralization filings sooner than the current 30-day requirement?

Yes. Assuming filers provide minimally complex filings as discussed above, OIC intends to complete initial review of each such filing within four business days.

Is there any limitation on how soon carriers can file subsequent filings not related to credit after May 6, 2021?

An insurer wishing to submit a subsequent filing should wait for its initial filing to remove credit to be approved, and then may submit a separate filing to make other changes.

Will insurers be required to file applications going forward if they make a change as a result of this rule? Is the OIC requiring the application to be filed by all insurers going forward even if it is not part of the policy?

The emergency rule does not change the requirements related to filing applications. As always, if the application is made part of the policy, it needs to be filed. If the application is not made part of the policy, it does not need to be filed. If the company is currently using an application which was **not** filed with our office and which contains language allowing the company to access and utilize the applicant's credit report, we expect the company to remove such language from the application. If the company is currently using an application which **was** filed with our office and which contains such language, we expect the company to file a revised version of that application removing such language.

Insurers have disclosures related to credit that are part of online quote flows or direct-agent scripts. These disclosures alert consumers that credit may be used to calculate their premium or determine eligibility. The IT work associated with removing such online disclosures AND with amending the scripts will take longer than it might to deal with the rating issues themselves. Are carriers expected to have removed any such references by the 6/20 date? Or will the OIC provide some leniency so that carriers can prioritize the actual filings and rating IT work?

Due to the short time-frame insurers have to make the changes to their rating plans required by the emergency rule, OIC does not expect insurers to prioritize removing these disclosures from their systems. In particular, the June 20, 2021 date does not apply to removing these disclosures. If the rule is made "permanent" (as that term is understood under the Administrative Procedure Act, Chapter 34.05 RCW), or the emergency order is extended, OIC would expect insurers to have had enough time to remove these disclosures.

What are the OIC's expectations if/when a company's IT staff is unable to program this change? We understand an extension is not available. Are we expected to non-renew any existing business and stop accepting new business?

In the event that an insurer is unable to implement the necessary process changes in time, the insurer should contact OIC to discuss what actions to take, which likely would include stopping new business

writings. OIC does not anticipate that changing rating procedures to replace a table of CBIS factors with a single neutral factor before June 20, 2021 will be an insurmountable challenge.

Does the Emergency Rule apply to non-commercial Farm/Ranch policies?

No.

Last updated April 13, 2021