

## Draft Pending Adoption

Attachment --  
Market Regulation and Consumer Affairs (D) Committee  
8/12/22

Draft: 7/21/22

Market Regulation Certification (D) Working Group  
Virtual Meeting (*in lieu of meeting at the 2022 Summer National Meeting*)  
July 13, 2022

The Market Regulation Certification (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 13, 2022. The following Working Group members participated: Russell Toal, Chair (NM); John Haworth, Vice Chair (WA); Lori K. Wing-Heier represented by Sarah Bailey (AK); Doug Ommen represented by Kim Cross (IA); Erica Weyhenmeyer (IL); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Tracy Biehn (NC); Martin Swanson and Robert McCullough (NE); Marlene Caride represented by Ralph Boeckman (NJ); Judith L. French represented by Don Layson (OH); Glen Mulready represented by Shelly Scott (OK); Don Beatty and Katie Johnson (VA); and Kevin Gaffney represented by Mary Block and Nick Marineau (VT). Also participating was: Pam O'Connell (CA).

### 1. Adopted its June 1 Minutes

Superintendent Toal said the Working Group met June 1. During this meeting, the Working Group took the following action: 1) adopted the Voluntary Market Regulation Certification Program scoring matrix; 2) reviewed the certification program implementation plan; and 3) reviewed the pilot state suggestions to the certification program.

Mr. Haworth made a motion, seconded by Ms. Weyhenmeyer, to adopt the Working Group's June 1 (Attachment xx) minutes. The motion passed unanimously.

### 2. Reviewed the Certification Program Implementation Plan

Superintendent Toal said the implementation plan provides for a three-year self-certification period in which any jurisdiction may use the guidelines and checklists to measure its compliance to the certification requirements. He said that during the self-certification period, recommendations for changes and improvements to the requirements would be received and considered.

Superintendent Toal said that after three years, any jurisdiction could choose to continue to self-certify, or it could apply to be fully certified. He said a Market Regulation and Certification Committee would be formed to review each jurisdiction seeking full certification. He said a review team would be formed to review applications and report to the Committee, and re-evaluations would be done every five years.

Superintendent Toal said fully certified jurisdictions may withdraw at any time and continue to self-certify. He said any self-certified jurisdiction would be considered provisionally certified.

Superintendent Toal noted that during the last Working Group meeting on June 1, Mr. Haworth addressed the process for peer review, the timing for moving from self-certification to full certification, and whether the use of contractors in the certification process should be allowed. Superintendent Toal noted that in their comments to the Working Group, two states proposed the Working Group re-evaluate the implementation plan in its entirety and then re-draft a plan for adoption. He said that was a good idea. He said some of what is currently in the original implementation plan can be retained, but the Working Group should draft a plan that it determines is the best way to implement and administer the certification program.

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Superintendent Toal asked for comments on the implementation plan to be sent to Randy Helder (NAIC) by July 29.

### 3. Reviewed Pilot State Suggested Revisions to the Certification Program

Superintendent Toal said the Working Group received three sets of comments. He said all the comments were helpful and will improve the certification program. He said his plan for the certification requirements is to ask a smaller group of state insurance regulators to meet a couple times in between each monthly Working Group meeting to review the recommendations on each requirement and report back to the Working Group on their progress. He said having a small group work on the certification requirements will also allow the Working Group time to work on the implementation plan.

Mr. Beatty said that requirement 2 requires jurisdictions to use the most current version of the NAIC *Market Regulation Handbook*, but there is no checklist question to affirm this. He suggested adding such a question. He said checklist question 3i asks about the staffing policies and procedures, and he said he is unsure how that relates to identifying market conduct issues. Regarding requirement 4, Mr. Beatty asked how a jurisdiction can support a claim that it encourages professional development. He also suggested that checklist item 4d should reference examiners in charge (EICs) to avoid confusion. Finally, Mr. Beatty said requirement 11 should provide the opportunity for a jurisdiction to indicate whether any of the companies chosen in the Market Actions (D) Working Group National Analysis Program wrote business in the jurisdiction since that would affect whether they participated.

Ms. O'Connell said her comments focused on correcting inconsistencies between the adopted scoring matrix and the certification program guidelines and checklist. She said she would be happy to work with the small group to discuss and incorporate appropriate suggestions.

Ms. LeDuc said her comments generally agreed with the comments of Ms. O'Connell. Ms. LeDuc said her comments noted some inconsistencies in the language used through the certification program requirement, guidelines and checklist, and identified areas that needed clarification. Her comments also pointed out some concerns with the requirements such as the blanket statement requiring the use of the most recent version of the NAIC *Market Regulation Handbook* rather than allowing for case-specific usage, especially for the application of standards to exams initiated prior to a new version. Ms. LeDuc volunteered to be on the small group to discuss the suggestions for revisions and make recommendations to the Working Group.

Mr. Swanson said hiring, training, and retaining employees is getting more difficult for departments of insurance (DOIs). He said that as the Working Group moves forward with the certification program, it needs to take into account the staffing difficulties. Superintendent Toal said that was a valid point and that most DOIs are experiencing the same hiring and retention issues. He said the Working Group needs to temper any unrealistic expectations of what a DOI can do and how quickly.

Superintendent Toal asked for volunteers to be on the drafting group for the requirements. Ms. LeDuc, Ms. O'Connell, Ms. Biehn, and Mr. Haworth volunteered.

Having no further business, the Market Regulation Certification (D) Working Group adjourned.

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