

Draft: 3/31/21

Market Analysis Procedures (D) Working Group
Virtual Meeting (*in lieu of meeting at the 2021 Fall National Meeting*)
March 19, 2021

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met March 19, 2021. The following Working Group members participated: John Haworth, Chair (WA); Rebecca Rebholz, Vice Chair (WI); Teri Mecca (AR); Sarah Borunda (AZ); Don McKinley (CA); Kurt Swan (CT); Scott Woods (FL); Erica Weyhenmeyer (IL); Tate Flott (KS); Sandra Stumbo (KY); Jeff Zewe (LA); Mary Lou Moran (MA); Dawna Kokosinski (MD); Timothy Schott (ME); Jill Huisken (MI); Jo LeDuc (MO); Jeannie Keller (MT); Robert McCollough (NE); Edwin Pugsley (NH); Ralph Boeckman (NJ); Leatrice Geckler (NM); Hermoliva Abejar (NV); Larry Wertel (NY); Landon Hubbard (OK); Jeffrey Arnold (PA); Matt Gendron (RI); Michael Bailes (SC); Shelley Wiseman (UT); Will Felvey (VA); Christina Rouleau (VT); and Theresa Miller (WV). Also participating was: Sarah Crittenden (GA).

1. Adopted its Feb. 25 Minutes

Mr. Haworth said the Working Group met Feb. 25 and took the following action: 1) adopted its Jan. 27 minutes; 2) discussed a 14-day limitation for Market Conduct Annual Statement (MCAS) extension requests; 3) discussed the MCAS attestation process; and 4) discussed training opportunities for market regulation analysts.

Mr. Pugsley made a motion, seconded by Mr. Boeckman, to adopt the Working Group's Feb. 25 minutes (Attachment Three-A). The motion passed unanimously.

2. Adopted Revisions to the MCAS Best Practices Guide

Ms. Rebholz said during the Working Group's last meeting, it discussed the completion of the *MCAS Best Practices Guide*, and the final draft was posted on the Working Group's web page. She said the most significant changes are: 1) the recommendation to limit initial and subsequent extension requests to two weeks; 2) highlighting "best practices" within the document; and 3) adding an appendix to summarize all the recommended best practices. She said the drafting group also inserted a table of contents for ease of reference. She noted that no comments were received on the draft.

Mr. McKinley made a motion, seconded by Mr. Bailes, to adopt the revisions to the *MCAS Best Practices Guide*. The motion passed unanimously.

3. Adopted a 14-Calendar Day MCAS Extension Limitation

Mr. Haworth said the Working Group has discussed the 14-day extension limitation during its last two Working Group meetings. He said the proposal is to limit extension requests to 14 days but continue to allow companies to ask for additional extensions if needed. He said to accomplish this, the MCAS filing tool, which is used by companies to file their MCAS submissions, would need to be re-coded to limit extension requests to 14 days and allow for multiple requests after the initial extension request. He noted that because of the re-coding, if the Working Group adopted the proposal, the soonest it could take effect is for 2021 data collected in 2022, but considering other market information system priorities, it may be later. He noted, however, that any MCAS jurisdiction can still choose to only allow 14 days for any extension request.

Mr. Haworth said his sense is that state insurance regulators are in favor of limiting extension requests to 14 days. Industry, however, proposed making the proposal 14 business days. Mr. Haworth said the Working Group received one comment from a state that is comfortable with 15 business days, which on the calendar would be three weeks. He said during the February meeting, several members of the Working Group noted that if the final day of an extension fell on a weekend or holiday, the jurisdiction would allow the filing on the following business day.

Lisa Brown (American Property Casualty Insurance Association—APCIA) said companies would like to have the ability to request extensions up to 60 days. She said the reliable filers start the process early, and they usually would not request an extension except in unusual situations where more than 14 days might be required. For reliable filers, extensions are not requested because of bad planning, and 14 days may not be enough time.

Birny Birnbaum (Center for Economic Justice—CEJ) said a company that is diligent in preparing its MCAS submission would not discover that it needs more time in the last days of the filing period and would not need 60 additional days after the due

date. He said he supports the 14-day limitation. Ms. Brown said if the reliable MCAS filers find an issue with their data in the last days before the due date, it generally is not a 14-day fix.

Mr. McKinley asked if companies would be able to request additional extensions if 14 days are not enough. Mr. Haworth said the MCAS submission tool would be re-programmed to allow additional requests.

Mr. Gendron requested that the 14-day extension be referred to as a 14-calendar day extension. He said Rhode Island had no preference for either a 14-calendar day extension limitation or a 15-business day limitation. He said Rhode Island is willing to provide the time required to get accurate data. Mr. Haworth noted that the longer the market analysts must wait for the data, the more often they have to refresh the data they are using for their analysis. Ms. Crittenden said she is in favor of referring to the limitation as “calendar days,” and she said market analysts need accurate data as soon as possible.

Ms. Keller made a motion, seconded by Ms. Rebholz, to limit MCAS extension requests in the MCAS submission tool to 14 calendar days and allow for additional extension requests. The motion passed unanimously.

4. Adopted an MCAS Requirement to Attest by Line of Business and by Jurisdiction

Mr. Haworth said the Health Insurance Interested Parties (HIIPs) made a request to be able to identify a different attester per line of business and per state. This request was supported by representatives of companies in the other lines of business.

Mr. Haworth said currently, a company filing its MCAS submissions must have two attesters—one attester to the accuracy and completeness of the MCAS filings and one attester to the company being able to track the data to its source and re-create the results in MCAS filing. He said these two attesters are the same for all lines of business and all states. This causes concerns for companies that have different responsible people for different states and different lines of business.

Mr. Haworth said NAIC staff support advised the Working Group that this can be accomplished by placing the attestations within the blank itself and removing the separate attestation section. The wording of the attestation would be contained in the Data Call and Definitions for each line of business. No MCAS filing could be submitted without attesters being identified, but failure to provide attesters in one state or line of business would not stop other filings from the same company if those other filings had the attesters properly identified.

Mr. Haworth noted that the Working Group also had a conversation about whether the attesters should be officers of the company. He said he is setting that discussion aside until the Working Group votes on whether to allow for different attesters per line of business and per state.

Samantha Burns (America’s Health Insurance Plans—AHIP) said AHIP supports two attesters per line of business and per state. She also said the company should have the discretion as to who the attesters are.

Ms. Brown said she appreciates the needs of the health insurers, but having to name attesters for every filing would result in more work for national companies that have been filing for a long time with no need to differentiate by line of business or by state. Randy Helder (NAIC) said the change would only result in four additional lines to be completed on a comma-separated-values (CSV) upload. Teresa Cooper (NAIC) said the NAIC provides a CSV Assistant for companies on the MCAS web page to make the creation of the CSV simpler.

Mr. Birnbaum said he supports the change because it makes it more efficient for state insurance regulators to contact the correct people on each filing.

Mr. Schott made a motion, seconded by Mr. Pugsley, to allow companies to identify their attesters by line of business and by jurisdiction.

Ms. Brown asked that the motion be re-phrased to “require” companies to identify their attesters by line of business and by jurisdiction because companies will no longer have the option to use the attestation page.

Mr. Schott and Mr. Pugsley agreed to change the motion to allow companies to identify their attesters by line of business and by jurisdiction. The motion passed unanimously.

5. Adopted Revisions to the NAIC Market Regulation Handbook

Mr. Haworth said the revisions to the market analysis chapters of the NAIC *Market Regulation Handbook* were completed prior to the Working Group's last meeting, and they have been posted in the exposure drafts section of the Working Group's web page. He said no comments have been received on the revisions.

Ms. Rebholz made a motion, seconded by Ms. Abejar, to adopt the revisions to the market analysis chapters of the NAIC *Market Regulation Handbook*. The motion passed unanimously.

6. Discussed Market Analysis Training

Mr. Haworth thanked Tony Dorschner (SD) for his written suggestions. He said those comments and others regarding training are posted on the Working Group's web page. He encouraged others to put their thoughts in writing so they can be compiled. He said there is a study group of at least 40 people to learn how to conduct a level 1 review in the Market Analysis Review System (MARS). He said this is in preparation for the Market Actions (D) Working Group's national analysis program.

Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

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