

Draft: 3/10/21

Market Analysis Procedures (D) Working Group
Virtual Meeting
February 25, 2021

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Feb. 25, 2021. The following Working Group members participated: John Haworth, Chair (WA); Rebecca Rebholz, Vice Chair (WI); Crystal Phelps (AR); Maria Ailor (AZ); Don McKinley (CA); Damion Hughes (CO); Steve DeAngelis (CT); Cheryl Wade (DC); Frank Pyle (DE); Scott Woods (FL); Erica Weyhenmeyer (IL); Tate Flott (KS); Jeff Zewe (LA); Mary Lou Moran (MA); Dawna Kokosinski (MD); Timothy Schott (ME); Jill Huisken (MI); Teresa Kroll (MO); Paul Hanson (MN); Jeannie Keller (MT); Reva Vandevoorde (NE); Karen McAllister (NH); Leatrice Geckler (NM); Hermoliva Abejar (NV); Larry Wertel (NY); Landon Hubbard (OK); Jeffrey Arnold (PA); Segun Daramola (RI); Rachel Moore (SC); Tracy Klausmeier (UT); Will Felvey (VA); Christina Rouleau (VT); and Theresa Miller (WV). Also participating were: Sarah Crittenden (GA); and Jo LeDuc (MO).

1. Adopted its Jan. 27 Minutes

Mr. Haworth said the Working Group met Jan. 27 and took the following action: 1) adopted its Nov. 12, 2020, 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.

Ms. Rebholz made a motion, seconded by Mr. Pyle, to adopt the Working Group's Jan. 27 minutes (Attachment). The motion passed unanimously.

2. Discussed Revisions to the MCAS Best Practices Guide

Ms. Rebholz said the group assigned to updating the *MCAS Best Practices Guide* (Best Practices Guide) has completed its work, and the revised version can be viewed in the exposure drafts on the Working Group's web page. She said the version in the exposure drafts can be compared with the current version of the Best Practices Guide, which is in the Related Documents tab. She said the most significant changes are: 1) the recommendation to limit initial and subsequent extension requests to two weeks; 2) the highlighting of "Best Practices" within the document and adding an appendix to summarize all the recommended best practices; and 3) the creation of a table of contents for ease of reference.

Ms. Rebholz said after the changes to the Best Practices Guide, the group also reviewed other MCAS references to ensure consistency. This included the web page, the Frequently Asked Questions (FAQs), the call letter, and participation requirements. Ms. Rebholz said since these are supporting documents, the Working Group will not be voting on the changes to them. She noted that the changes to those documents were all technical.

Ms. Rebholz said the Working Group will keep the revised Best Practices Guide posted in the exposure drafts through the next conference call, and she invited comments through March 17. She said at the Working Group's next meeting prior to the Spring National Meeting, it will vote on the revised Best Practices Guide.

3. Discussed MCAS 14-Day Extension Limitation

Mr. Haworth said the MCAS submission tool currently allows a company to choose up to 60 days for an extension request. The subgroup revising the Best Practices Guide is advising that all states allow no more than a 14-day, or two-week, extension. The drafting group is also asking that the MCAS tool be adjusted to only allow extensions for no more than 14 days at a time.

Mr. Haworth said it is possible that companies may need more than the 14 days. The MCAS tool will also need to be changed to allow companies to submit second or third requests. Mr. Haworth said this will require some programming work by NAIC Information Services. He said if the change is approved, the soonest it would be in effect would be for the 2021 data reported in 2022, but it might be the following year.

Samantha Burns (America's Health Insurance Plans—AHIP) asked the Working Group if the extension could be for 14 business days. Mr. Flott said the Kansas Department of Insurance (DOI) typically only provides 14 days and if the 14th day falls on a

Saturday, Sunday or holiday, then the last day would be the following working day. He prefers calendar days rather than business days. Ms. Keller said she also prefers calendar days with weekends assumed to be the following Monday.

Lisa Brown (American Property Casualty Insurance Association—APCIA) said it is important to have the ability to make a second or third request if limited to 14 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.

Mr. Haworth said the Working Group will vote on this issue on its next conference call. He asked that comments be sent to Randy Helder (NAIC) by March 17.

4. Discussed MCAS Attestation

Mr. Haworth said a mock-up was created of a solution that will allow companies to identify two attesters per line of business, per state. He said the issue is that currently a company can only submit the same two attesters for all lines of business in all states. This creates issues where companies may have different responsible parties for different lines of business or in different states. Mr. Haworth said the proposed solution is to move the attestation to the reporting blank so different attesters can be identified in every filing. He said the actual wording of the attestation will be in the MCAS Data Call and Definitions for each line of business, and it will be referenced on the blank.

Ms. Burns said the health insurer interested parties (HIIPs) were supportive of the proposed solution. She said it was a positive change, and she would like to see it move forward. Joseph E. Zolecki (Blue Cross Blue Shield Association—BCBSA) agreed, and he said it looked like a feasible solution to allow different attesters for different lines of business and states.

Ms. Crittenden asked if the attester could be required to be an executive of the company. Mr. Haworth said it is important that the attester be someone knowledgeable about the specific data being reported. Mr. Arnold said if the attester is too far removed from the data, they are only attesting to the best of their knowledge. Mr. Haworth said there are lines for two attesters, so it may be possible to require one to be an executive while the other is knowledgeable about the specific data. Mr. Helder said there are two attesters because one of the attesters is attesting to the accuracy and the other is attesting to the source of the data and the ability to re-create it.

Ms. Brown said a large nationwide company may have a significant amount of input if the reporting is done with the reporting blank.

Andrew R. Pauley (National Association of Mutual Insurance Companies—NAMIC) said these seem to be two separate issues: 1) who needs to attest; and 2) how the attestation is done. He asked if the solution is all or nothing. He asked if a company can still choose to attest on the attestation page with one attester responsible for all lines and states. Mr. Helder said the solution anticipates removing the attestation page and replacing it with data elements on the reporting blank.

Mr. Haworth asked for comments to be sent to Mr. Helder by March 17. He said the Working Group will consider adoption of the new attestation process at its next meeting.

5. Discussed the Market Analysis Framework

Mr. Haworth said the small group reviewing and updating the NAIC *Market Regulation Handbook* chapters on market analysis completed its work. He said the exposure draft section of the Working Group web page contains links to the redlined versions of Chapters 6 through 9.

Mr. Haworth asked everyone to review the drafts and send comments to Mr. Helder by March 17.

6. Discussed Market Analysis Training

Mr. Haworth said for the last few meetings, the Working Group has been discussing training suggestions that state insurance regulators would find helpful. He said the Working Group received suggestions from South Carolina, and those are posted in the comments on the Working Group web page.

Ms. Abejar said new analysts and examiners would be helped by training in market conduct risk identification. She said it would be helpful to know what risks are present when certain data is seen. She also suggested a repository to document situations and how they were handled to learn from experiences.

Ms. LeDuc suggested a lunch and learn format that is regularly scheduled but informal. State insurance regulators could bring problems they are encountering to the lunch and learn to discuss solutions and ideas. She noted that it is difficult to find training on problems right when it is needed. The lunch and learn would allow for quicker turnaround.

Ms. Ailor said the timing of training should match with the need (e.g., MCAS training is needed when filings are being received and analyzed).

7. Discussed Other Matters

Mr. Haworth said HIIPs also said in their comment letter that there appears to be a one-megabyte file size limitation when uploading filings in the MCAS. He said NAIC staff were unaware of this, but they have duplicated the issue. He said it will likely be an issue that the Market Information Systems Research & Development (D) Working Group will consider addressing and prioritize if any changes need to be made. He said NAIC staff will submit a Uniform System Enhancement Request (USER) for to the Market Information Systems Research & Development Working Group to begin that review.

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

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