

Draft: 12/05/16

Implementation Plan adopted Market Regulation and Consumer Affairs (D) Committee – Nov. 30, 2016
Implementation Plan adopted by the Market Regulation Certification (D) Working Group – Nov. 3, 2016
Guidelines and Checklist adopted by the Market Regulation and Consumer Affairs (D) Committee – Aug. 27, 2016
Guidelines and Checklist adopted by the Market Regulation Certification (D) Working Group – July 28, 2016

Voluntary Market Regulation Certification Program Proposal for Implementation

Current Charge of the Working Group

The Market Regulation Certification (D) Working Group will develop a formal market regulation certification proposal for consideration by the National Association of Insurance Commissioners (NAIC) membership that provides recommendations for the following:

- 1) Certification standards.
- 2) A process for the state implementation of the standards.
- 3) A process to measure the states' compliance with the standards.
- 4) A process for future revisions to the standards.

As per the charges adopted for the Market Regulation Certification (D) Working Group, the following is a draft proposal for charge 2 through charge 4.

Implementation Proposal

Three Year Self-Certification Program

- Upon adoption/approval of the First Tier Certification Standards, the *Market Regulation Certification Program Self-Assessment Guidelines and Checklist Tool* and the Implementation Plan by the NAIC membership, participating jurisdictions may begin self-certification. No later than two weeks prior to the 2017 Fall National Meeting, each participating jurisdiction may submit a self-certification report that outlines the progress achieved towards implementation of the first-tier market regulation certification standards. The self-certification will follow the formatted checklist designed and finalized by the Market Regulation Certification (D) Working Group. The self-certification report will be submitted to NAIC staff and reviewed by the Market Regulation and Consumer Affairs (D) Committee or a Working Group assigned to do so on its behalf. Each jurisdiction that submits a self-certification report will be provisionally certified.
- Prior to the 2018 and 2019 Fall National Meeting, each provisionally certified jurisdiction will submit its self-certification report to the Market Regulation and Consumer Affairs (D) Committee, which will monitor and assess its progress towards full compliance to the First Tier Certification Standards. Jurisdictions that did not previously submit self-certification reports in 2017 may do so prior to either the 2018 Fall National Meeting or 2019 Fall National Meeting in order to receive provisional certification.
- During the three-year self-certification period, the Market Regulation Certification (D) Working Group will regularly review feedback from jurisdictions concerning any issues or recommended changes to the First Tier Certification Standards and the *Market Regulation Certification Program Self-Assessment Guidelines and Checklist Tool* based on the use of the guidelines and checklist for self-certification.
- At any time, participating jurisdictions may request peer-review, guidance, and training. To the extent necessary to accommodate such requests, NAIC staff may work with **seasoned regulators** to assist in meeting the needs of such requestors.

Commented [H(1)]: I think we need a list of regulators who have agreed to participate. This can't just be an ad hoc process

Commented [H(2)]: How will communications going back to applying states work? Will there be response letters?

Commented [H(3R2)]: Doesn't peer review do this better?

Commented [H(4R2)]: Any changes to process should be in the handbook

Commented [H(5R2)]: Should focus on a peer review process first so that feedback to participating states can be provided. This will have to be an iterative process as states may have varying laws.

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- In 2020, jurisdictions will have the option to continue self-certifying or to apply for full certification. (See *Full Certification Program* below.) Jurisdictions that decide to continue self-certifying will use the same process described above.

Full Certification Program

- The Market Regulation Standards and Certification Committee will determine whether jurisdictions that apply to be fully certified meet the certification standards. Members of the Committee shall be appointed annually pursuant to the NAIC Bylaws. An NAIC Review Team (similarly constructed as the Financial Regulation and Accreditation Standards Accreditation Review Team) will conduct the certification reviews.
- No later than two weeks prior to the 2020 Spring National Meeting (or no later than two weeks prior to any subsequent Spring National Meeting), any participating jurisdiction may decide to continue to self-certify or apply for full certification by submitting an application for full certification with its self-certification report to NAIC staff. The jurisdiction's application will be reviewed by the NAIC Review Team, which will provide its recommendation to the Market Regulation Standards and Certification Committee. For jurisdictions applying for full certification, the Committee will use applicable monitoring tools to verify the self-certification information reported by the participating jurisdictions. NAIC staff may use additional forms of verification deemed necessary, such as interviews or on-site visits. Each fully certified jurisdiction will be reviewed every five years to assess the jurisdiction's ongoing compliance with the certification standards.
- The applications for full certification will be reviewed in the order in which they are received. No more than 12 reviews will be conducted in each of the first five years (2020 through 2024) of the certification program. Beginning in 2025 and in each subsequent year, jurisdictions that request to have full certification must submit their application with its self-certification report to NAIC staff two weeks prior to the Spring National Meeting. The NAIC Review Team will conduct the five-year re-assessments and review all the applications. Recommendations for full certification and re-certifications will be provided to the Market Regulation Standards and Certification Committee prior to the Fall National Meeting of the same calendar year. The Market Regulation Standards and Certification Committee will make its decision regarding certification or re-certification by the end of the calendar year.
- In the first five years (2020 through 2024) of the full certification program, all jurisdictions that submit an application for full certification will be provisionally certified by the Market Regulation and Consumer Affairs (D) Committee (as per the process described in the *Three Year Self-Certification Program* above) until their application for full certification is reviewed and a decision on the application is made by the Market Regulation Standards and Certification Committee.
- In the years between each five-year re-certification review, fully certified jurisdictions will submit annual self-assessment audits to NAIC staff at least two weeks prior to the Summer National Meeting.
- A jurisdiction may withdraw its application for full certification at any time. A jurisdiction that is fully certified can exit the full certification re-assessment cycle and choose to be either provisionally certified (per the process described in the *Three Year Self-Certification Program* above) or to not participate in the Market Regulation Certification Program.

Commented [H(6)]: Let's do voluntary first, get it up and rolling and then see if we need to do the "Full Certification Program" at a later date

Commented [H(7)]: Do we want "contractors" reviewing state regulator work product?

Commented [H(8)]: Does anyone have capacity to review 50 state submissions within 2 weeks?

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- A fully certified jurisdiction may qualify for financial incentives. (Details will be determined and approved by the Executive (EX) Committee.)

Future Revisions

- Future revisions of the market regulation certification standards will be made from time to time by the Market Regulation Certification (D) Working Group with approval of the Market Regulation and Consumer Affairs (D) Committee and NAIC membership. New standards will be added only as necessary and added no more frequently than once per year. Revised sets of standards will constitute a new “certification tier.” An effective date will be specified for each new requirement within a tier. Self-certified and fully certified jurisdictions that comply with a previous tier of requirements will not be measured on compliance to new tier requirements until the first annual self-assessment audit or the five-year re-certification review (whichever occurs first) after the effective date of the new requirement.