

## Draft Pending Adoption

Attachment --  
Market Regulation and Consumer Affairs (D) Committee  
3/24/23

Draft: 3/6/23

Market Regulation Certification (D) Working Group  
Virtual Meeting (*in lieu of meeting at the 2023 Spring National Meeting*)  
February 27, 2023

The Market Regulation Certification (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Feb. 27, 2023. The following Working Group members participated: Mike Kreidler, Chair, represented by John Haworth (WA); Bill Cole, Vice Chair (WY); Lori K. Wing-Heier represented by Chelsy Maller (AK); Erica Weyhenmeyer (IL); Kathleen A. Birrane represented by Mary Kwei (MD); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Tracy Biehn (NC); Robert McCollough (NE); Marlene Caride represented by Ralph Boeckman and Erin Porter (NJ); Judith L. French represented by Don Layson (OH); Glen Mulready represented by Landon Hubbart (OK); Michael Wise represented by Rachel Moore (NC); Tanji J. Northrup (UT); Don Beatty (VA); and Kevin Gaffney represented by Marcia Violette (VT).

1. Adopted its Dec. 9, 2022, and 2022 Fall National Meeting Minutes

Haworth said the Working Group conducted an e-vote that concluded Dec. 9, 2022, to adopt the revisions to the Market Regulation Certification Program implementation plan.

Cole made a motion, seconded by Biehn, to adopt the Working Group's Dec. 9, 2022, (Attachment A) and Nov. 28, 2022 (Attachment B) minutes. The motion passed unanimously.

2. Discussed its Charges and Goals for 2023

Haworth said the only charge for the Working Group is to develop a formal market regulation certification proposal for consideration by the NAIC members. He said this has five parts.

Haworth said the first part is for the Working Group to develop the certification standards that a state's insurance department should or must meet to be certified. He said this, for the most part, has been achieved. He noted that 12 requirements were originally drafted into the certification program covering staffing, use of the NAIC Market Information Systems (MIS), participation in Market Regulation and Consumer Affairs (D) Committee Working Groups, participation in the Market Conduct Annual Statement (MCAS), collaboration with other departments, and the ability to enforce compliance of regulated entities to market conduct laws and regulations.

Haworth said the Working Group is currently assessing the recommendations made by a group of 18 states that volunteered to certify themselves with the original certification program requirements.

Haworth said the second part of the charge is to develop an implementation plan for the certification program. He said this is finished and that on Dec. 9, 2022, the Working Group adopted the Market Regulation Certification Program implementation plan.

Haworth said the third part tasks the Working Group with developing a process for measuring a jurisdiction's compliance to the standards. He said this was completed in 2022, but the scoring matrix is currently being updated as revisions are being recommended by the drafting group that is reviewing the requirements.

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Haworth said the fourth part of the charge is to create a process for future revisions to the certification standards. He said this was included in the implementation plan that was adopted in December.

Haworth said the final part of the charge is the Working Group's ongoing activity once a certification program is approved to assist jurisdictions in achieving certification.

Haworth said his goal is for the Working Group to have the complete package of the requirements, scoring matrix, and implementation plan to the Market Regulation and Consumer Affairs (D) Committee by the Summer National Meeting.

### 3. Reviewed the Pilot Program Suggested Revisions to the Market Regulation Certification Program

Haworth said the drafting group did not meet in January but met twice in February. He said the drafting group has completed going through the requirements. He said the group has reviewed all the requirements and is now doing one final close look to be sure the wording in the program is consistent, clear, and logical and that the scoring matrix is aligned with the requirements guidelines, measurements, and checklists.

Haworth said the revisions were primarily in line with recommendations received by the jurisdictions that piloted the Market Regulation Certification Program. However, the drafting group also came up with some revisions it felt were important.

Haworth said among the revisions and suggestions are:

- 1) The drafting group added an "Objective" and a "Measurement" section to each requirement. Much of the redline is simply cutting paragraphs from the "Guidelines" section to the new sections.
- 2) On requirements 3 and 4, the drafting group clarified that requirement 3 measures staffing resources and requirement 4 measures staffing qualifications. He said requirement 4 was rewritten to be clearer and to match the formatting of the requirements. He noted that the requirements originally were written by different individuals, so there were many inconsistencies that needed to be cleaned up.
- 3) The drafting group believes the requirement 4 measurements of "unqualified pass" and "provisional pass" create confusion. The drafting group will be asking the Working Group to decide whether those measurements should be replaced with a simple description of what is required to pass.
- 4) Recognizing that employees often have multiple responsibilities, the drafting group changed "full-time employee" to "full-time equivalent employee."
- 5) The drafting group will also be proposing to the Working Group that requirements 6 and 11 should be merged. Requirement 6 concerns collaboration, and requirement 11 concerns the Market Actions (D) Working Group's national analysis process. Because national analysis is a collaborative process, the drafting group believes it should be included with requirement 6. Also, because the national analysis process itself changes frequently, as the Working Group tries to make it more effective, it should not be its own requirement within the Market Regulation Certification Program.
- 6) For requirement 7 regarding the MCAS, the drafting group removed question 7c about requiring companies to file using a format acceptable to the NAIC. There are really no alternatives.

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- 7) Requirement 8 concerns electronic data entry with the NAIC. The drafting group will be asking the Working Group to consider simplifying the requirement to only the actual submission of Complaints Database System (CDS), Regulatory Information Retrieval System (RIRS), and data to the NAIC. The drafting group will be suggesting that the timeliness of the submissions be moved from the requirement itself to the checklist and measurement sections of the requirement.
- 8) For requirement 8, the drafting group will be asking the Working Group to consider building in tolerances (e.g., a jurisdiction could fulfill the requirement if it submits data in a timely manner 75% of the time).
- 9) In requirement 10 regarding Collaborative Action Designees (CADs), the drafting group will be asking that the Working Group alter the language of the requirement slightly to make it clear that the CAD needs to attend only 50% of the Market Actions (D) Working Group meetings they are eligible to attend because there are Working Group meetings that are only open to the Working Group members.

Haworth said the drafting group stopped at requirement 6 and that he is confident it will complete its review by the Spring National Meeting.

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

SharePoint/NAIC Support Staff Hub/Member Meetings/D Cmte/2023 Spring National Meeting/MRCWG/02 MRCWG T