



BsUFA Reauthorization: A Primer

The U.S. Food and Drug Administration (FDA) plays a critically important role in ensuring America's patients gain access to high-quality, more-affordable biologic drugs in the form of biosimilars. FDA's Center for Biologics Evaluation and Research (CBER) and the Center for Drug Evaluation and Research (CDER) review and approve abbreviated biologics license applications (BLA) submitted by biosimilar manufacturers. In order for the medicine to receive FDA approval, data submitted in a BLA must demonstrate the biosimilar drug product is "highly similar" to the reference biologic product (brand-name product) and that there are no clinically meaningful differences in safety, purity or potency.

Much like generic drugs, biosimilars have an opportunity to create competition and expand patient access to critical biologic medicines.

Use of biosimilars saved patients **\$7.9 billion in 2020 and has the potential to generate more than **\$133 billion** in total savings by 2025.¹**

FDA's biosimilar review program is funded by a combination of congressional appropriations and user fees collected from manufacturers.

In 2020, BsUFA fees accounted for **60% of total program costs.**

What Is BsUFA?

The biosimilars market in the United States is still relatively nascent. The Biologics Price Competition and Innovation Act of 2010 (BPCIA) created FDA's biosimilar approval pathway. The first biosimilar was approved in 2015. As of January 2022, there are more than 30 FDA-approved biosimilars with dozens more in the queue.

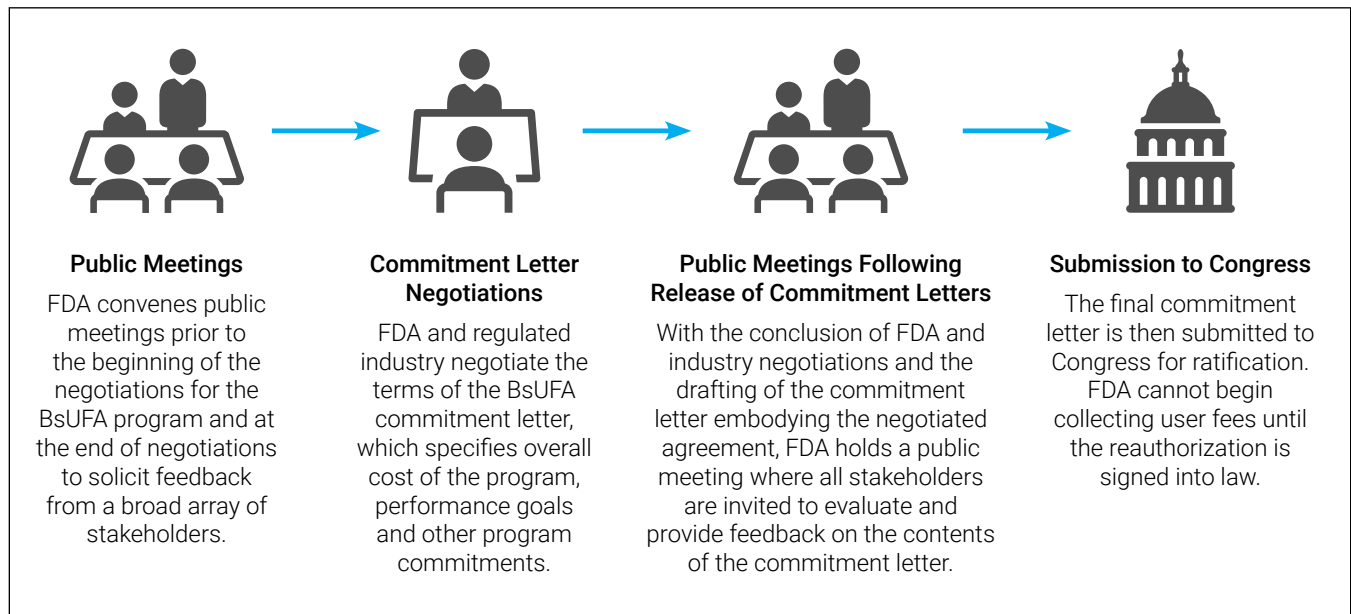
The Biosimilar User Fee Act (BsUFA) is a law authorizing FDA to assess and collect fees from drug manufacturers that submit BLAs for FDA's review and approval. BsUFA was originally enacted in 2012 under the Food and Drug Administration Safety and Innovation Act (FDASIA) for a period of five years. Each subsequent reauthorization

requires industry and FDA to negotiate commitments to enhance and improve the review process to facilitate timely access to biosimilar medicines. FDA assesses and collects user fees to ensure the agency has the necessary resources to fulfill the agreed upon commitments. BsUFA III will constitute the second reauthorization of this Act.

¹ AAM, 2021 U.S. Generic and Biosimilar Medicines Savings Report

The BsUFA Reauthorization Process

Every five years, BsUFA must be reauthorized to allow FDA to continue collecting user fees to facilitate the review of biosimilars applications. The reauthorization process typically works as follows:



This thoughtful process results in carefully crafted BsUFA agreements that reflect input from a broad array of stakeholders. User fee reauthorizations also tend to enjoy strong bipartisan support due to the lengthy stakeholder input process before the contents are submitted to Congress.

The current BsUFA program is set to expire on October 1, 2022. A timely reauthorization is critical in allowing FDA to continue to carry out timely reviews and other important regulatory activities.

Key Components of BsUFA III

Scientific Review Commitments

Biosimilar Application Supplements

- Manufacturers can submit certain modifications (for example, update labeling with new safety information or changes to indications) to an approved BLA.
- Under BsUFA III, FDA commits to accelerating supplement reviews for safety labels, extrapolation, label carve-in and carve-outs and new pharmacokinetic data.

Meeting Management

- BLA sponsors participate in meetings with FDA review staff to gain insights into the agency's expectations and perspectives on different issues. These meetings are important to facilitating a predictable and efficient review process.
- BsUFA III includes commitments to: add a new type of meeting to get feedback on focused questions; make meetings more efficient; help provide FDA with sufficient information in advance of meetings; and obtain rapid clarification of meeting minutes.

Interchangeability & Regulatory Science Program

- In order to receive an interchangeable designation, a biosimilar must produce the same clinical result as the reference product in any given patient. Subject to state law, a pharmacist may dispense an interchangeable biosimilar when a reference product is prescribed without intervention from a provider.
- FDA has approved two interchangeable biosimilars as of January 2022. BsUFA III will help manufacturers develop more interchangeable biosimilars through new demonstration projects under the regulatory science program to evaluate data needs, enhance efficiency and ensure regulatory decision-making keeps pace with evolving science. These demonstrations will also evaluate mechanisms to streamline overall biosimilar development.
- Findings from the demonstrations will inform a comprehensive strategy to advance interchangeability and future guidance documents.

Use-Related Risk Analysis (URRA)

- Drug-device combination product manufacturers must conduct a comprehensive URRA, which helps identify and mitigate potential risks associated with how an end user (for example, patient or provider) uses the product. In the context of biosimilars, URRAs can be an important component of establishing sameness with the reference product.
- Manufacturers can submit scientific justifications to FDA demonstrating why it is not necessary to conduct a human factors validation study based on the URRA. FDA has 60 days to respond.
- Under BsUFA III, FDA commits to publishing draft guidance on the URRA process by 2024.

Remote Inspections

- Throughout the COVID-19 pandemic, FDA has used alternate tools (for example, records requests, documentation from foreign regulatory partners) to supplement its ability to assess facilities remotely.
- Under BsUFA III, FDA commits to issuing guidance on the use of these tools moving forward.

Financial and IT Commitments

Spend-Down of Carryover Funds

- “Carryover funds” are user fees that FDA has collected but not yet spent.
- FDA commits to reducing the carryover balance from 39 weeks to 21 weeks over a three-year period.

IT and Electronic Submissions

- BsUFA III furthers FDA’s efforts to continue modernizing the agency’s IT capabilities.
- For example, FDA will modernize and move the Electronic Submissions Gateway (ESG) to the cloud to help improve and ensure continued usability.

FDA will hire 15 employees to carry out the BsUFA III commitments.

The number of employees needed to implement user fee agreements is carefully negotiated and dependent on fee revenue available to the agency from industry.