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Biosimilars Council
A Division of the Association for Accessible Medicines

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Generic + Biosimilar Medicines Conference

Transition from BsUFA I to BsUFA II

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BsUFA Overview

- The Biosimilar User Fee Act (BsUFA) supplements Congressional appropriated funding for the review of biosimilar biologics applications to FDA.

- BsUFA enhances the timeliness of application reviews and interactions between FDA and sponsors.

- BsUFA is a multi collaborative effort between various stakeholders, including but not limited to, FDA, regulated industry representatives, patient and consumer advocates, health care professionals, and other public stakeholders.

- BsUFA is a 5-year commitment between industry and FDA. This commitment is negotiated and reauthorized every 5 years. Currently we are in the second iteration of BsUFA, FY2018 – FY2022.

BsUFA Performance FY 2017 (Last Year of BsUFA I)

Of the 23 BsUFA goal categories, 19 applied to FY 2017 biosimilar submissions. FDA met or exceeded 10 of these 19 goals.

FY 2017 Final Review Goal Performance

BsUFA Submission Type	Goal	On Time	Performance Goal	Percent on Time	Goal Met
Biosimilar Applications and Supplements					
Original Biosimilar Product Applications	10 months	13 of 13	90%	100%	Yes
Resubmitted Original Biosimilar Applications	6 months	2 of 2	90%	100%	Yes
Original Supplements with Clinical Data	10 months	0 of 0	90%	NA*	NA*
Resubmitted Supplements with Clinical Data	6 months	0 of 0	90%	NA*	NA*
Manufacturing Supplements	6 months	6 of 7	90%	86%	No

BsUFA Performance FY 2017 (Last Year of BsUFA I)

FY 2017 Final Procedural and Meeting Goal Performance

BsUFA Submission Type	Goal	On Time	Performance Goal	Percent on Time	Goal Met
Procedural Notifications					
Notification of Issues Identified During Filing Review	74 days	13 of 13	90%	100%	Yes
Notification of Planned Review Timeline	74 days	13 of 13	90%	100%	Yes
Review of Proprietary Names During BPD Phase	180 days	10 of 10	90%	100%	Yes
Review of Proprietary Names During Application Review	90 days	16 of 16	90%	100%	Yes
Procedural Responses					
Major Dispute Resolution	30 days	0 of 0	90%	NA*	NA*
Responses to Clinical Holds	30 days	0 of 0	90%	NA*	NA*
Special Protocol Assessments†	45 days	3 of 3	90%	100%	Yes

BsUFA Performance FY 2017 (Last Year of BsUFA I)

FY 2017 Final Procedural and Meeting Goal Performance (continued)

BsUFA Submission Type	Goal	On Time	Performance Goal	Percent on Time	Goal Met
Meeting Management					
Meeting Requests: Biosimilar Initial Advisory	21 days	6 of 12	90%	50%	No
Meeting Requests: BPD Type 1	14 days	4 of 4	90%	100%	Yes
Meeting Requests: BPD Type 2	21 days	56 of 59	90%	95%	Yes
Meeting Requests: BPD Type 3	21 days	1 of 3	90%	33%	No
Meeting Requests: BPD Type 4	21 days	8 of 10	90%	80%	No
Scheduling Meetings: Biosimilar Initial Advisory	90 days	4 of 9	90%	44%	No
Scheduling Meetings: BPD Type 1	30 days	2 of 4	90%	50%	No
Scheduling Meetings: BPD Type 2	75 days	37 of 49	90%	76%	No
Scheduling Meetings: BPD Type 3	120 days	3 of 3	90%	100%	Yes
Scheduling Meetings: BPD Type 4	60 days	6 of 10	90%	60%	No
Meeting Minutes: All Meeting Types	30 days	50 of 58	90%	86%	No

BsUFA Preliminary Performance FY 2018 (First Year of BsUFA II)

FDA has the potential to meet or exceed 22 of the 25 goals that apply to the FY 2018 cohort once these actions are completed.

FY 2018 Preliminary Review Goal Performance

BsUFA Submission Type	Goal	On Time	Performance Goal	Percent on Time	Goal Met
Biosimilar Applications and Supplements					
Original Biosimilar Product Applications	10 months	13 of 13	90%	100%	Yes
Resubmitted Original Biosimilar Applications	6 months	2 of 2	90%	100%	Yes
Original Supplements with Clinical Data	10 months	0 of 0	90%	NA*	NA*
Resubmitted Supplements with Clinical Data	6 months	0 of 0	90%	NA*	NA*
Manufacturing Supplements	6 months	6 of 7	90%	86%	No

* In all submission types marked not applicable (NA), performance goals do not apply because no submissions were received.

BsUFA Preliminary Performance FY 2018 (First Year of BsUFA II)

FY 2018 Preliminary Procedural and Meeting Goal Performance

BsUFA Submission Type	Actions Completed	Goal	Performance Goal	Percent on Time	Highest Possible Performance
Procedural Notifications					
Notification of Issues Identified During Filing Review for Supplements with Clinical Data	0 of 1 Complete	74 days	90%	--	100%
Notification of Planned Review Timeline for Supplements with Clinical Data	0 of 1 Complete	74 days	90%	--	100%
Review of Proprietary Names During BPD Phase	8 of 10 Complete	180 days	90%	100%	100%
Review of Proprietary Names During Application Review	11 of 13 Complete	90 days	90%	100%	100%
Procedural Responses					
Major Dispute Resolution	0 of 0 Complete	30 days	90%	NA*	NA*
Responses to Clinical Holds	0 of 0 Complete	30 days	90%	NA*	NA*
Special Protocol Assessments	3 of 3 Complete	45 days	90%	100%	100%

* In all submission types marked not applicable (NA), performance goals do not apply because no submissions were received.

BsUFA Preliminary Performance FY 2018 (First Year of BsUFA II)

FY 2018 Preliminary Procedural and Meeting Goal Performance (continued)

BsUFA Submission Type	Actions Completed	Goal	Performance Goal	Percent on Time	Highest Possible Performance
Meeting Management					
Meeting Requests: Biosimilar Initial Advisory	12 of 12 Complete	21 days	90%	100%	100%
Meeting Requests: BPD Type 1	6 of 6 Complete	14 days	90%	100%	100%
Meeting Requests: BPD Type 2	46 of 47 Complete	21 days	90%	93%	94%
Meeting Requests: BPD Type 3	1 of 1 Complete	21 days	90%	100%	100%
Meeting Requests: BPD Type 4	6 of 6 Complete	21 days	90%	100%	100%
Scheduling Meetings: Biosimilar Initial Advisory	4 of 5 Complete	75 days	90%	50%	60%
Scheduling Meetings: BPD Type 1	5 of 5 Complete	30 days	90%	80%	80%
Scheduling Meetings: BPD Type 2	32 of 32 Complete	90 days	80%	91%	91%

* In all submission types marked not applicable (NA), performance goals do not apply because no submissions were received.

BsUFA Financial Performance

BsUFA Collections by Fee Source for Cohort Years 2017 and 2018

Fees Collected	Cohort Year 2017			Cohort Year 2018		
	Estimated†	Actual	% Dif.	Estimated†	Actual	% Dif.
BPD Fees	N/A	$16,215,561	N/A	$14,768,857	$16,924,665	15%
Application Fees	N/A	$14,416,810	N/A	$22,707,685	$10,043,784	-56%
Product Fees	N/A	$782,000	N/A	N/A	N/A	N/A
Establishment Fees	N/A	$1,536,600	N/A	N/A	N/A	N/A
Program Fees	N/A	N/A	N/A	$2,737,458	$2,433,296	-11%
Total Collections	**N/A**	**$32,950,971**	**N/A**	**$40,214,000**	**$29,401,745**	**-27%**

BsUFA Financial Performance

Historical BsUFA Obligations by Funding Source

Obligations		FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Total Obligated		$23,391,649	$34,817,217	$45,569,430	$55,814,043	$62,604,122
Non-User Fee Appropriations	Total	$21,074,247	$32,550,420	$32,353,416	$23,096,373	$22,324,558
	Percent	90%	93%	71%	41%	36%
User Fee Revenue	Total	$2,317,402	$2,266,797	$13,216,014	$32,717,670	$40,279,564
	Percent	10%	7%	29%	59%	64%

Transition from BsUFA 1 to BsUFA 2

Hillel P. Cohen PhD, Executive Director of Scientific Affairs, Sandoz Inc.

GRx-Biosims 2019 Conference
November 4, 2019, Bethesda MD

SANDOZ A Novartis Division

Progress Made in BsUFA 2

1. Financially and programmatically, elements of BsUFA were copied from PDUFA but tailored for biosimilar development
   - Sandoz believes that BsUFA2 is successful in this effort

2. Educational efforts about biosimilars
   - Introduced towards healthcare professionals
   - Continuing in outreach efforts directed to patients

3. FDA can more readily use BsUFA funds paid by industry
   - It is now easier to meet the “trigger”

4. FDA is using carryover funds that were accrued in BsUFA 1

Challenges of BsUFA 2

1. Type 2 meetings are still not being scheduled in a timely manner (2018: 37 of 49; 76%)
   - Most common type of meeting requested
   - Was a problem during BsUFA 1 (2016: 30 of 41; 73%)
   - Target was revised to help remedy the problem
     - Was “within 75 days of request” (graduated increase from 70% in 2013 to 90% in 2017)
     - Modified to “within 90 days of request” (graduated increase from 80% in 2018 & 2019 to 90% in 2020-2012)

2. FDA has not yet hired full complement of staff specified in BsUFA 2
   - 80 for review + 15 for scientific coordination & education

FDA 2017 Biosimilar User Fee Act Performance Report to Congress
FDA 2018 Biosimilar User Fee Act Performance Report to Congress
Biosimilar Biological Product Reauthorization Performance Goals and Procedures Fiscal Years 2018 Through 2022

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Treatment of Labeling Supplements Under BsUFA I, II, and III

Brian McCormick
VP, Chief Regulatory Counsel, Teva Pharmaceuticals

Background

- There is no “same labeling” requirement for biosimilars in the BPCIA.
- Since BsUFA I, FDA has made a decision to label biosimilars like “generics.”

- Putting the pros/cons of this decision aside, its consequences are huge:
  - It complicates patent litigation, as sponsors are pushed toward patented methods of use, despite clear BPCIA authority to carve/alter RP labeling;

  - It complicates education, as biosimilarity data are left out of labeling, in an environment where knowledge is low but proactive/reactive communication is constrained – by the labeling, by FDA, by patents, by settlements, etc.; and

  - It complicates product liability, as the status of *Mensing* preemption in the absence of a statutory “same labeling” mandate is unclear.

Marketplace Realities

- Unlike a “generic” market, the biosimilar market is essentially an innovator one – dependent on sponsor education, at least until interchangeability becomes reality.

- Providers, payors, and purchasers base their decisions on data, so having the fullest possible labeling ASAP is key to overcoming barriers to entry and uptake.

- Innovator patent estates mean that the process by which sponsors can carve information out of RP labeling and – *more importantly* – carve it back in, is critical.
  - Delays here mean delays in printing, packaging, shipping, and educating the marketplace about those newly-approved uses of the biosimilars.
  - Flexibility is crucial, as the IP situation on the ground changes rapidly.
  - Predictability is key, as timing is likely to have been negotiated in advance.

Challenge of BsUFA

- FDA has no process for expediting the review of pre- or post-approval labeling amendments or supplements for biosimilars.
  - BsUFA is silent, leading FDA to classify supplements as containing "clinical data" – leading to 10-month review clocks.
  - They are often more akin to labeling supplements, even approaching CBE's.

- FDA recognizes the problem, as it:
  - Removed a reference to "efficacy supplements" in its draft labeling guidance, replacing it with "prior approval supplements";
  - Asked about the issue in its 2018 request for public comment;
  - Has approved supplements for some biosimilars in less than 6 months; and
  - Made guidance a goal under the Biosimilar Action Plan (for 2019?).

Looking Ahead

- More needs to be done, particularly with respect to *timing* and *predictability*, so biosimilar (and reference product) sponsors may plan and time their settlement, market access, promotion, operational, and other strategies.

- In the absence of meaningful guidance, this must be an issue for BsUFA III or even legislation mandating an expedited pathway.

- PhRMA, The Biosimilars Council, and The Biosimilars Forum have all expressed support for some expedited pathway, up to and including CBE-type approaches.

- Policy here can go a long way toward creating a healthy biosimilars market, improving consumer choice, and saving the healthcare system millions of dollars.