BsUFA
Background and Reauthorization Process
November 19, 2020

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Center for Drug Evaluation and Research
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Outline for this briefing

- BsUFA Background
- Financial Background and Fee Structure
- Workload and Performance
- Additional BsUFA II Commitments
- Reauthorization Process Overview
BsUFA Background
BsUFA is still a relatively new program.

- The Biologics Price Competition and Innovate Act of 2009 (BPCI Act) directed FDA to develop recommendations for a user fee program for 351(k) applications for FY 2013 – FY 2017.

- After consultation with regulated industry and public stakeholders, FDA transmitted recommendations to Congress on January 13th, 2012. The Food and Drug Administration Safety and Innovation Act (FDASIA) of 2012 included the first authorization of BsUFA.

- In 2011-2012, there were no marketing applications or products on the market, established drug development process or history related to biosimilar biological products.

- BsUFA is now entering its 9th year; PDUFA is entering its 28th year.

- Since its creation, BsUFA facilitated the approval of 28 biosimilar biological products for the American public.
BsUFA I to BsUFA II

BsUFA I (FDASIA) | 2013-2017

- Referenced PDUFA fee amounts and included fees for products in the development phase in order to generate fee revenue to support FDA’s review work during development and enable sponsors to have meetings with FDA early in development.

- Introduced predictable timelines and review process performance goals, primarily modeled on PDUFA, that increased over the course of BsUFA I.

BsUFA II (FDARA) | 2018-2022

- Established an independent, efficient user fee structure based on program costs.

- Implemented a review program (“the Program”) to promote the efficiency and effectiveness of the first review cycle and minimize the number of review cycles necessary for biosimilar approval.

- Added commitments to assess the Program, clarify the regulatory pathway, and enhance staff capacity.
Basic BsUFA construct

- Fee funds are added to appropriated funds and are intended to increase staffing and other resources to speed and enhance review process
- User fees pay for services that directly benefit fee payers*
- Fee discussions with industry focus on desired enhancements in terms of specific aspects of activities related to review of biosimilar biological products
  - What new or enhanced process will the FDA want or industry seek to include in the next 5 years?
  - What is technically feasible?
  - What resources are required to implement and sustain these enhancements?
  - No discussion of policy.
- Experience: *Devil is in the Details*

* OMB Circular A-25; direct benefit distinguishes user fees from tax
Financial Background and Fee Structure
User fee revenue is critical to the program.

User fee revenue has outpaced budget authority available for the program.

BsUFA user fee revenue funded 64% of the program in FY2019.
Current Fee Structure

- FY 2021 target revenue is $42,493,000.
  - 28% collected from initial, annual, and reactivation fees for the BPD Program ($12,094,292 collected from an estimated 118 programs)
  - 33% collected from applications ($13,973,960 collected from an estimated 8 biosimilar biological product applications)
  - 39% collected from program fees for the BPD Program ($16,424,748 collected from an estimated 54 programs)

<table>
<thead>
<tr>
<th>User Fee Type</th>
<th>FY2020</th>
<th>FY2021</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Biosimilar Biological Product Development (BPD) Fee</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial BPD</td>
<td>$117,987</td>
<td>$102,494</td>
</tr>
<tr>
<td>Annual BPD</td>
<td>$117,987</td>
<td>$102,494</td>
</tr>
<tr>
<td>Reactivation</td>
<td>$235,975</td>
<td>$204,988</td>
</tr>
<tr>
<td><strong>Application Fee</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clinical Data Required</td>
<td>$1,746,745</td>
<td>$1,746,745</td>
</tr>
<tr>
<td>Clinical Data Not Required</td>
<td>$873,373</td>
<td>$873,373</td>
</tr>
<tr>
<td><strong>Program Fee</strong></td>
<td>$304,162</td>
<td>$304,162</td>
</tr>
</tbody>
</table>
Workload and Performance
Fees support review work against a broad set of performance commitments.

28 specific review, procedural, and meeting management goals; in addition to other commitments

<table>
<thead>
<tr>
<th>EXAMPLE</th>
<th>GOAL</th>
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</table>
| Original & Resubmitted Original Biosimilar Biological Product Applications | 90% of standard applications within 10 months of filing  
90% of resubmitted standard applications within 6 months of receipt |
| Original & Resubmitted Supplements with Clinical Data | 90% of standard supplements within 10 months of receipt  
90% of resubmitted standard supplements within 6 months of receipt |
| Manufacturing Supplements | 80% of prior approval supplements within 4 months of receipt (FY2020)  
90% of non-prior approval supplements within 6 months of receipt |
| Major Dispute Resolution | 90% of responses within 30 days of receipt |
| Clinical Hold Response | 90% of clinical hold responses within 30 days of receipt |
| Special Protocol Assessments (SPA) | 90% of SPAs and agreement requests within 45 days of receipt |
| Meeting Minutes | 90% of minutes issued within 30 days of the meeting |
FDA is on track to meet core review performance goals for FY2020.

<table>
<thead>
<tr>
<th>Submission Type</th>
<th>Goal: Act on 90 Percent Within</th>
<th>Number Filed</th>
<th>FY 2020 Current Performance</th>
<th>Highest Possible Final Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Biosimilar BLAs</td>
<td>10 months of filing date</td>
<td>5</td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Resubmitted Original Biosimilar BLAs</td>
<td>6 months</td>
<td>1</td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Original Biosimilar Supplements With Clinical Data</td>
<td>10 months</td>
<td>2</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Resubmitted Biosimilar Supplements With Clinical Data</td>
<td>6 months</td>
<td>1</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Biosimilar Manufacturing Supplements Requiring Prior Approval</td>
<td>4 months</td>
<td>30</td>
<td>96%</td>
<td>97%</td>
</tr>
<tr>
<td>Biosimilar Manufacturing Supplements Not Requiring Prior Approval</td>
<td>6 months</td>
<td>35</td>
<td>96%</td>
<td>98%</td>
</tr>
<tr>
<td>Biosimilar Labeling Supplements Requiring Prior Approval</td>
<td>6 months or 30 days</td>
<td>1</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Biosimilar Labeling Supplements (CBE)</td>
<td>6 months or 30 days</td>
<td>1</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Biosimilar Labeling Supplements (Unknown)</td>
<td>6 months or 30 days</td>
<td>2</td>
<td></td>
<td>100%</td>
</tr>
</tbody>
</table>
Biosimilar development is increasing. Both BPD program enrollment and submitted biosimilar applications have increased from BsUFA I to BsUFA II.
Meeting management is a **challenge**.

CDER and CBER meeting management performance by FY

<table>
<thead>
<tr>
<th>Meeting Management Goal</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020*</th>
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<tbody>
<tr>
<td>Biosimilar Initial Advisory Meeting Requests</td>
<td>100%</td>
<td>70%</td>
<td>50%</td>
<td>100%</td>
<td>73%</td>
<td>100%</td>
</tr>
<tr>
<td>Biosimilar Initial Advisory Meetings Scheduled</td>
<td>50%</td>
<td>75%</td>
<td>44%</td>
<td>60%</td>
<td>43%</td>
<td>100%</td>
</tr>
<tr>
<td>Biosimilar Initial Advisory Written Responses</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>50%</td>
</tr>
<tr>
<td>Biosimilar Initial Advisory Preliminary Responses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>86%</td>
<td>100%</td>
</tr>
<tr>
<td>BPD Type 1 Meeting Requests</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>89%</td>
<td>100%</td>
</tr>
<tr>
<td>BPD Type 1 Meetings Scheduled</td>
<td>67%</td>
<td>75%</td>
<td>50%</td>
<td>80%</td>
<td>75%</td>
<td>33%</td>
</tr>
<tr>
<td>BPD Type 2 Meeting Requests</td>
<td>98%</td>
<td>91%</td>
<td>95%</td>
<td>94%</td>
<td>97%</td>
<td>93%</td>
</tr>
<tr>
<td>BPD Type 2 Meetings Scheduled</td>
<td>49%</td>
<td>73%</td>
<td>76%</td>
<td>90%</td>
<td>71%</td>
<td>82%</td>
</tr>
<tr>
<td>BPD Type 2 Written Responses</td>
<td></td>
<td></td>
<td></td>
<td>90%</td>
<td>94%</td>
<td>61%</td>
</tr>
<tr>
<td>BPD Type 2 Preliminary Responses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>87%</td>
<td>88%</td>
</tr>
<tr>
<td>BPD Type 3 Meeting Requests</td>
<td>100%</td>
<td>80%</td>
<td>33%</td>
<td>100%</td>
<td>78%</td>
<td>100%</td>
</tr>
<tr>
<td>BPD Type 3 Meetings Scheduled</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>BPD Type 3 Preliminary Responses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
<td>78%</td>
</tr>
<tr>
<td>BPD Type 4 Meeting Requests</td>
<td>100%</td>
<td>82%</td>
<td>80%</td>
<td>100%</td>
<td>100%</td>
<td>88%</td>
</tr>
<tr>
<td>BPD Type 4 Meetings Scheduled</td>
<td>0%</td>
<td>50%</td>
<td>60%</td>
<td>83%</td>
<td>43%</td>
<td>63%</td>
</tr>
<tr>
<td>BPD Type 4 Preliminary Responses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Meeting Minutes for All Meeting Types</td>
<td>77%</td>
<td>72%</td>
<td>86%</td>
<td>91%</td>
<td>72%</td>
<td>90%</td>
</tr>
</tbody>
</table>

*FY2020 numbers are preliminary.
Additional BsUFA II Commitments
We are **on track to meet** performance enhancement commitments.

In addition to the performance review goals under BsUFA II, FDA is implementing **over 50 actions to fulfill BsUFA II performance enhancement commitments**. These include:

- **14** new or updated pilots, programs or processes
- **4** data/list postings to the public website
- **9** public meetings or public workshops
- **13** new or revised guidances
- **13** public reports
- **1** hiring goal

41 of 54 commitments complete
These performance enhancement commitments include...

• Ensuring Effectiveness of the Program
• Clarifying the 351(k) Regulatory Pathway
• Enhancing Capacity for Biosimilar Guidance, Review, and Communication
• Enhancing Management of User Fee Resources
• Improving FDA Hiring and Retention of Review Staff
Ensuring Effectiveness of the Program

Implementation of the Program
To promote the efficiency and effectiveness of the first review cycle and minimize the number of review cycles necessary for biosimilar approval, FDA implemented a review program (“the Program”). The Program introduces increased opportunities for communication with FDA via mid-cycle communications and late-cycle meetings.

Assessment of the Program
FDA contracted with an independent third-party to evaluate the impact of the Program on the efficiency and effectiveness of the first review cycle for biosimilars. FDA will host interim and final public meetings and publish interim and final public assessments.

Review of Proprietary Names to Reduce Medication Errors
To enhance patient safety, FDA committed to measures and associated performance goals to reduce medication errors related to look-alike and sound-alike proprietary names.

Updated Guidances
FDA updated the Good Review Management Principles and Practices (GRMP) guidance to ensure that it encompasses all review activities for biosimilar and interchangeable products. FDA revised draft guidance on Formal Meetings Between the FDA and Biosimilar Biological Product Sponsors or Applicants. FDA also updated guidance on Best Practices for Communication Between IND Sponsors and FDA During Drug Development.
Clarifying the 351(k) Regulatory Pathway

Draft Guidances

FDA published draft and final guidance on the following topics:

• Considerations in demonstrating interchangeability with a reference product,
• Statistical considerations for the analysis of analytic similarity data, and
• Processes and further considerations related to post-approval manufacturing changes for biosimilars.

Final Guidances

FDA published revised or finalized the following draft guidances:

• Clinical Pharmacology Data to Support a Demonstration of Biosimilarity to a Reference Product,
• Nonproprietary Naming of Biological Products, and
• Labeling for Biosimilar Biological Products.
Enhancing Capacity for Biosimilar Guidance, Review, and Communication

Strengthen Staff Capacity

FDA strengthened staff capacity to:

• Develop new regulations and guidance to clarify scientific criteria for biosimilar development and approval to provide certainty to industry and other stakeholders related to key regulatory issues,

• Develop or revise MaPPs, SOPPs, and review templates to facilitate rapid update and application of new policies and guidance by review staff, and to develop and deliver timely comprehensive training to review staff,

• Deliver timely information to the public to improve public understanding of biosimilarity and interchangeability, and

• Deliver information concerning the date of first licensure and reference product exclusivity expiry date, to be included in the Purple Book.
Enhancing Management of User Fee Resources

Resource Capacity Planning and Modernized Time Reporting
FDA created and staffed a resource capacity planning capability to better predict future workload and understand associated resource demands. In addition, FDA developed a new capacity planning methodology that accounts for sustained increases in workload. FDA is also modernizing its time reporting practices and systems in all Centers engaged in BsUFA work.

Financial Transparency and Efficiency
FDA contracted with an independent third party to evaluate BsUFA program resource management during FY 2018 to ensure user fee resources are administered, allocated, and reported in an efficient and transparent manner. FDA published BsUFA five-year financial plans each year and held annual public meetings starting in FY 2019 to discuss the plans, along with implementation of other management of user fee resources commitments.

Management of Carryover Balance
FDA committed to reducing the carryover balance. If FDA is unable to reduce the carryover balance to the specified amount, FDA will outline a plan to reduce the carryover balance and update the BsUFA five-year financial plan.
Improving FDA Hiring and Retention of Review Staff

Modernizing Hiring System Infrastructure
To modernize hiring system infrastructure and augment our system capacity, FDA deployed a position description library and is expecting to deploy a position-based management system.

Augmentation of Hiring Staff Capacity and Capability
Three contracts were awarded to vendors to provide continuous support for FDA’s human resources capacity.

Establishment of a Dedicated Scientific Staffing Unit
FDA staffed a new HR unit focused on developing and implementing scientific staffing hiring strategies and plans.

Clear Goals for Biosimilar Biological Product Review Program Hiring
FDA established hiring goals and committed to reporting on the progress of these goals on the FDA website.

Comprehensive and Continuous Assessment of Hiring and Retention
FDA brought on third-party contractors to conduct an initial and interim assessment to better understand thus improve hiring practices.
Performance data and completed deliverables are available to the public

Completed BsUFA II deliverables can be found on FDA’s website:

https://www.fda.gov/industry/biosimilar-user-fee-amendments/completed-bsufa-ii-deliverables

FDA released a new BsUFA performance dashboard that allows users to view and download current and historical performance data:

BsUFA Reauthorization Process
BsUFA reauthorization process

BsUFA REAUTHORIZATION AND REPORTING REQUIREMENTS

(f) REAUTHORIZATION

(1) CONSULTATION - In developing recommendations to present to the Congress with respect to the goals described in subsection (a), and plans for meeting the goals, for the process for the review of biosimilar biological product applications for the first 5 fiscal years after fiscal year 2022, and for the reauthorization of this subpart for such fiscal years, the Secretary shall consult with- (A) the Committee on Energy and Commerce of the House of Representatives; (B) the Committee on Health, Education, Labor, and Pensions of the Senate; (C) scientific and academic experts; (D) health care professionals; (E) representatives of patient and consumer advocacy groups; and (F) the regulated industry.

(2) PUBLIC REVIEW OF RECOMMENDATIONS - After negotiations with the regulated industry, the Secretary shall- (A) present the recommendations developed under paragraph (1) to the congressional committees specified in such paragraph; (B) publish such recommendations in the Federal Register; (C) provide for a period of 30 days for the public to provide written comments on such recommendations; (D) hold a meeting at which the public may present its views on such recommendations; and (E) after consideration of such public views and comments, revise such recommendations as necessary.

(3) TRANSMITTAL OF RECOMMENDATIONS - Not later than January 15, 2022, the Secretary shall transmit to the Congress the revised recommendations under paragraph (2), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.
Priorities for BsUFA III

• Ensure stable funding for the program
• Enhance regulatory predictability and efficiency
• Enhance operational capabilities, efficiency, and agility
• Address information and scientific gaps to facilitate more efficient development
THANK YOU