



BERMUDA MONETARY AUTHORITY

CONSULTATION PAPER

ENHANCEMENTS TO THE REGULATORY AND SUPERVISORY REGIME FOR COMMERCIAL INSURERS

January 2012

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Introduction

1. This Consultation Paper outlines the Bermuda Monetary Authority's (the Authority) proposed approach to enhancing the regulatory and supervisory regime for commercial insurers, which are defined as Class 4, 3B and 3A general business and Class E, D and C long-term insurers. The proposals reflect the complexity and risk profile of many Bermuda commercial insurers and the need to keep pace with international regulatory and supervisory developments and best practices, specifically regarding the conduct of the internal audit function, the separate incorporation of long-term and general business activities, the segregation of insurance and certain activities not traditionally considered to be insurance, minimum solvency measures and solvency reporting and disclosure. The proposals also reflect the need for the Authority to have more timely and comprehensive information regarding material changes to the business operations of an insurer, including the outsourcing of key functions.
2. Each of the proposals outlined in this Consultation Paper is intended to reflect the unique characteristics of the Bermuda market and the nature, scale and complexity of commercial insurers operating in Bermuda.
3. The Consultation Paper encompasses the following specific proposals:
 - a) A proposal to require commercial insurers to segregate and staff independently the internal audit function.
 - b) A proposal to require commercial insurers to conduct certain activities not traditionally considered to be insurance in a separately incorporated and capitalised subsidiary or affiliate.
 - c) A proposal to require the separate incorporation and capitalisation of commercial insurers directly writing long-term and general business insurance contracts.
 - d) A proposal to eliminate the minimum five-year contract term for accident and disability insurance written by long-term commercial insurers and to continue to permit general business commercial insurers to write accident and disability insurance with a term of less than five years.
 - e) A proposal to require additional information with respect to applications to license a commercial insurer in Bermuda, including:
 - i. *Pro forma* financial statements demonstrating that the enhanced capital requirement (ECR) would be met at all times during the five years post-licensing; and
 - ii. High-level information on the corporate governance and risk management policies and procedures in place or to be adopted and implemented upon licensing.

- f) A proposal to require commercial insurers and insurance groups to provide advance notice to the Authority and to provide the Authority with the power to object to the following changes:
 - i. The prospective outsourcing of key functions or underwriting activities from the internal conduct of these functions to an external unrelated vendor;
 - ii. The acquisition of a controlling interest in, or creation of an entity conducting material financial business operations that offer products or services to unaffiliated third parties;
 - iii. Expansion into a material new line of insurance or reinsurance business, including material portfolio transfers (both inward and outward); and
 - iv. Material divestitures.
- g) A proposal to make the floor of the legal entity minimum margin of solvency (MSM) equal to 25 percent of the ECR for commercial insurers.
- h) A proposal to require commercial insurers to report immediately to the Authority any non-compliance with either the MSM or the ECR and to file with the Authority within 14 days a corrective plan and a timeline for corrective action in the event of non-compliance.
- i) A proposal to require commercial insurers and insurance groups to disclose publicly their compliance with the MSM and ECR and any material breach of the MSM or ECR.

4. For the purposes of this paper:

“available statutory capital and surplus” is defined as the total statutory capital and surplus (Form 1A, Form 1 or Form 4 statutory balance sheet, Line 40) reported by an insurer at the end of its reporting year, plus adjustments, if applicable, made under Section 6D of the Insurance Act 1978 (Insurance Act) or under rules made under Section 6A of the Insurance Act and subject to eligible capital limits;

“commercial insurers” are defined as Classes 4, 3B and 3A general business insurers and Class E, D and C long-term insurers;

“general business” is defined as set forth in Section 1 of the Insurance Act;

“insurance business” is defined as set forth in Section 1 of the Insurance Act;

“insurance group” is defined as set forth in Section 1 of the Insurance Act;

“insurers” includes “reinsurers” and “insurance” includes “reinsurance”;

“long-term business” is defined as set forth in Section 1 of the Insurance Act.

5. The views of the insurance industry and other interested persons on the proposals set out in this paper are invited. Comments should be sent to the Authority addressed to policy@bma.bm no later than 15th March 2012.

Executive Summary

6. The Authority is proposing enhancements to its regulatory and supervisory regime for commercial insurers to keep pace with international regulatory and supervisory developments, international standards and best practices. The proposed enhancements also aim to provide the Authority with more timely and comprehensive information regarding significant changes to the management and ownership of an insurer; the conduct of insurance and non-insurance activities through an insurance entity; the outsourcing of key functions; and certain material changes to the business operations of the insurer. Each of these changes are intended to be established and implemented in a manner that reflects the unique characteristics of the Bermuda market, and the nature, scale and complexity of commercial insurers operating in Bermuda.

7. It is intended that the proposals would apply to commercial insurers effective January 1st, 2013, with the exception of the proposal related to the separate incorporation of direct long-term and general business operations, which would be effective July 1st, 2012. Certain proposals would also apply to insurance groups. The responsibility for group compliance generally would be placed on the designated insurer of the group, which has the duty to facilitate and maintain compliance by the group with the Insurance Act, the Insurance (Group Supervision) Rules 2011 (the Group Supervision Rules) and the Insurance (Prudential Standards) (Insurance Group Solvency Requirements) Rules 2011 (the Group Prudential Rules) (collectively, the Group Rules).

8. ***Proposals related to the internal audit function.*** It is proposed to require commercial insurers to segregate and staff independently from the compliance function the internal audit function. Moreover, it is proposed to require the segregation of the internal audit function from the business lines for which it has oversight responsibility and from the underwriting and finance operations. These proposals reflect the important role of internal audit in monitoring the company's implementation of and adherence to, among other things, governance, risk management and compliance policies and internal controls.

9. ***Proposals related to certain business activities not traditionally considered to be insurance.*** It is proposed to require commercial insurers to conduct certain activities not traditionally considered to be insurance business in a separately incorporated and capitalised subsidiary or affiliate, in order to address concerns related to "contagion" or the transfer of risks between non-insurance business and insurance lines of business and resultant negative impacts on policyholders. These activities would include: property management, sales or leasing; conducting an investment business; establishing or operating an investment fund that makes investments of a nature that are not ancillary to the business of the insurer; acting as a fund administrator; accepting deposits; underwriting debt or equity securities or otherwise engaging in investment banking; or engaging in commercial or industrial activities not ancillary to the conduct of an insurance business.

10. If adopted as proposed, the requirement to conduct certain activities in a separately incorporated and capitalised subsidiary or affiliate would be effective January 1st, 2013. Activities conducted as of December 31st, 2011 would be permitted to continue pursuant to existing authorisation for a period of five years, after which the Authority would require them to be conducted in a separately incorporated and capitalised subsidiary.

11. Section 30JB of the Insurance Act requires prior notification to the Authority of an insurer's intent to engage in non-insurance business that is not ancillary to the insurance business of the insurer and provides the Authority with the power to object to the conduct of such business. Until the proposed January 1st, 2013 effective date of the legislative amendment contemplated by this proposal, the Authority would intend to scrutinise carefully any material change notification related to the conduct of non-insurance activities and may object or impose conditions designed to achieve the policyholder protection objectives of this proposal.

12. ***Proposals related to the separate incorporation and capitalisation of companies directly writing long-term and general business insurance.*** It is proposed to require the separate incorporation of commercial insurers directly writing long-term and general business insurance. The very different nature of the risks directly underwritten by long-term and general business companies, and the heightened policyholder concerns in the long-term line of business, warrant the separate incorporation of these operations. This proposal would apply to the writing of direct long-term business and general business in a single legal entity; it would continue to be permissible to write long-term reinsurance business and general direct and/or reinsurance business in the same legal entity.

13. If adopted as proposed, new dual license applications would not be approved by the Authority on and after July 1st, 2012. Holders of existing dual licenses that are actively in use by Bermuda insurers as of December 31st, 2011 would be permitted to continue to operate subject to the terms and conditions of those licenses. Applications for dual licenses filed on and after January 1st, 2012 and prior to July 1st, 2012 would be scrutinised carefully in light of the heightened concerns for long-term policyholders and, if approved, likely would be subject to conditions designed to achieve the policyholder protection objectives of this proposal.

14. Long-term business as defined under the Insurance Act encompasses accident and disability insurance with a term of not less than five years. It is proposed to eliminate the minimum term of not less than five years to permit long-term insurers to write accident and disability insurance contracts of any duration. Moreover, general business insurers would continue to be permitted to write accident and disability contracts with a term of less than five years.

15. If adopted as proposed, the requirement to conduct the direct writing of long-term and general business insurance in separately incorporated and capitalised companies, and the modification of the authority to write accident and disability insurance, would be reflected in amendments to the Insurance Act.

16. ***Proposals related to licensing requirements.*** It is proposed to require the submission of additional information to the Authority with respect to applications to license a commercial insurer in Bermuda. Specifically, applicants would be required to demonstrate through the submission of *pro forma* balance sheets and income statements that the ECR would be met at all times during the five years post-licensing (in addition to the current requirement to demonstrate compliance with the MSM). In addition, high-level information on the corporate governance and risk management policies and procedures in place or to be adopted and implemented upon licensing (including an outsourcing policy) would be required. If adopted as proposed, the requirements for the submission of additional information in licensing applications filed on or after January 1st 2013 would be reflected in an amended Information Bulletin on the insurance application process and published on the Authority's website.

17. ***Proposals related to changes in business.*** In order to exercise effectively its supervisory oversight of commercial insurers and insurance groups, it is essential that the Authority have timely and comprehensive information regarding certain changes to the business operations of the insurer or group that could reasonably be expected to change materially its risk profile or impact materially and negatively its solvency or liquidity. It is also essential that the Authority have the ability to object to such changes.

Therefore, the Authority proposes to expand the scope of the material changes in Section 30JA(1) of the Insurance Act that are subject to the 14-day prior notification requirements of Section 30JB and the power of the Authority to object pursuant to Section 30JC. Reportable changes would specifically include:

- a) The prospective outsourcing of key functions or underwriting activities from the internal conduct of these functions to an external unrelated vendor;
- b) The acquisition of a controlling interest in, or creation of an entity conducting material financial business operations that offer products or services to unaffiliated third parties;
- c) Expansion into a material new line of insurance or reinsurance business, including material portfolio transfers (both inward and outward); and
- d) Material divestitures.

18. ***Proposals Related to Minimum Margin of Solvency Floor, Reporting of Non-Compliance with MSM and ECR and Disclosure Requirements.*** In order to better reflect the complexity and risk profiles of many commercial insurers and to keep pace with international practice for the establishment of minimum capital standards for insurers, the Authority proposes to establish a floor for the MSM equal to 25 percent of the ECR at the legal entity level. If adopted as proposed, the floor would be reflected in amendments to the Schedule to the Insurance Returns and Solvency Return 1980, effective for returns filed on or after January 1st, 2013.

19. Currently, commercial insurers are required to file a report with the Authority within 30 days of becoming aware of the failure to meet the MSM or having reason to

believe such a failure has occurred. A similar report is required within 14 days of becoming aware of the failure to meet the ECR or having reason to believe such a failure has occurred. Under the Group Supervision Rules, the designated insurer must *immediately* notify the Authority in writing upon coming into knowledge of or having reason to believe that the group or any member of the group has failed to comply substantially with a requirement of the Act or the Group Rules, including requirements related to its solvency position.

20. The Authority is of the view that the potential delays in reporting by commercial insurers may impede its ability to take timely corrective action to protect policyholders. Therefore, it is proposed to require commercial insurers to report *immediately* to the Authority upon becoming aware of any non-compliance with the MSM or the ECR or having reason to believe that such non-compliance has occurred, and to file within 14 days a plan with the Authority specifically outlining the actions to be taken by the insurer to restore the MSM and/or ECR to required levels. The Authority would have the power to require changes to the plan or the timeline if it finds either to be inadequate.

21. Commercial insurers and insurance groups would be required to disclose publicly their compliance with the MSM and ECR and any material breach of the MSM or ECR.

Background and Detailed Proposals

22. The Authority has been on a path to enhance its risk-based regime for insurers to reflect the trend towards growing complexity and increasing risk profiles of commercial insurers.

23. The Authority has also endeavored to be consistent with international standards and best practices for insurance supervision. This has included enhancing the regulatory and supervisory framework for commercial insurers to reflect the technical requirements of the International Association of Insurance Supervisors' (IAIS) Insurance Core Principles, which were ratified at the Annual General Meeting of the IAIS in October 2011, and the European Union's Solvency II Directive.

24. The proposals contained in this Consultation Paper reflect the Authority's views on appropriate enhancements to the regulatory regime for commercial insurers (including insurance groups). The proposals are intended to reflect the unique characteristics of the Bermuda market and the nature, scale and complexity of commercial insurers operating in Bermuda.

Proposals Related to the Internal Audit Function

25. All commercial insurers are required to have internal audit, compliance, risk management and actuarial functions that are fit for purpose, given the nature, scale and complexity of the insurer's operations and activities. Insurers are permitted to combine the compliance and internal audit functions and this is in fact done in some companies, although it is not the prevailing practice for large commercial insurers. International best practice is to segregate the internal audit and compliance functions, and this is the practice among the majority of commercial insurers in the Bermuda market.

26. In order to align the Authority's requirements for commercial insurers with prevailing best practice, it is proposed to require commercial insurers to segregate and staff independently from the compliance function the internal audit function. Moreover, it is proposed to require the segregation of the internal audit function from the business lines for which it has oversight responsibility and from underwriting and finance operations.

27. The internal audit function is an important independent function that monitors the insurer's implementation of and adherence to governance, risk management and compliance policies and internal controls. The internal audit function assesses the adequacy and effectiveness of these policies and controls, makes reports to the board of directors on its findings and, where appropriate, identifies shortcomings and recommends improvements. The segregation of the internal audit function would facilitate the effective exercise of the role of the internal audit function.

28. The Authority does not believe that this proposal would impose undue burden on Bermuda commercial insurers. If appropriate given the nature, scale and complexity of

the insurer, the internal audit function may be outsourced to a third-party, including an insurance manager.

29. Commercial insurers would be required to maintain adequate and appropriate documentation of the independence of the internal audit function from the compliance function, business lines for which it has oversight responsibility and underwriting and finance operations. This documentation would be required to be produced upon request during on-site reviews of the insurer or pursuant to a request for production of documents under the Insurance Act.

Proposals Related to Certain Business Activities Not Traditionally Considered to be Insurance

30. It is proposed to require commercial insurers to conduct certain activities not traditionally considered to be insurance in a separately incorporated and capitalised subsidiary or affiliate of the insurer. This proposed requirement would address concerns related to “contagion,” or the transfer of risks between non-traditional business and traditional insurance lines of business and resultant negative impacts on policyholders and other stakeholders.

31. Activities not traditionally considered to be insurance would be defined as the following:

- a) Property management, sales or leasing;
- b) Conducting an investment business within the meaning of the Investment Business Act of 2003;
- c) Establishing or operating an investment fund within the meaning of the Investment Funds Act of 2006 that makes investments of a nature that are not ancillary to the business of the insurer;
- d) Acting as a fund administrator;
- e) Accepting deposits within the meaning of the Banks and Deposit Companies Act of 1999;
- f) Engaging in the underwriting of debt or equity securities or other investment banking activities; and
- g) Engaging in general commercial or industrial activities that are not ancillary to the conduct of the insurance business.

32. If adopted as proposed, the requirement to conduct certain non-traditional activities in a separately incorporated and capitalised subsidiary or affiliate would be effective January 1st, 2013. Consideration may be given at a later date to extending the requirement to all classes of insurers.

33. The Authority would permit activities conducted as of December 31st, 2011 to continue pursuant to existing authorisation for a period of five years until January 1st, 2017. Effective January 1st, 2017, the Authority would require activities not traditionally considered to be insurance within the meaning of the Insurance Act to be conducted in a

separately incorporated and capitalised subsidiary or affiliate. The Authority believes that the five-year transition period provides the industry with ample opportunity to reorganise business activities to reflect the new requirements.

34. Section 30JB of the Insurance Act requires prior notification to the Authority of an insurer's intent to engage in non-insurance business that is not ancillary to the insurance business of the insurer and provides the Authority with the power to object to the conduct of such business. Until the proposed January 1st, 2013 effective date, the Authority would intend to scrutinise carefully any material change notification related to the conduct of non-insurance activities and may object or impose conditions designed to achieve the policyholder protection objectives of this proposal.

Proposals Related to the Separate Incorporation of Companies Directly Writing Both Long-Term and General Business Insurance Contracts

35. Effective July 1st, 2012, the Authority proposes to cease granting dual licences to permit commercial insurers to directly write both long-term and general business insurance contracts through the same legal entity. General business licences granted on and after July 1st, 2012 would require assets and liabilities related to the direct writing of long-term contracts to be segregated in a separately incorporated and separately capitalised legal entity. This proposal would apply to the writing of direct long-term business and general business in a single legal entity; it would continue to be permissible to write long-term reinsurance business and general direct and/or reinsurance business in the same legal entity.

36. Holders of existing dual licences that are actively in use by Bermuda insurers as of December 31st, 2011 would be permitted to continue to operate subject to the terms and conditions of those licences. Applications for dual licences filed on and after January 1st 2012 and prior to July 1st, 2012 would be scrutinised carefully in light of the heightened concerns for long-term policyholders and, if approved, likely would be subject to conditions designed to achieve the policyholder protection objectives of this proposal.

37. Long-term business as defined under the Insurance Act encompasses accident and disability insurance with a term of not less than five years. It is proposed to eliminate the minimum term of not less than five years to permit long-term insurers to write accident and disability insurance contracts of any duration. Moreover, general business insurers would continue to be permitted to write accident and disability insurance contracts with a term of less than five years.

38. If adopted as proposed, the requirement to conduct the direct writing of long-term and general business insurance in separately incorporated and capitalised companies and the modification of the authority to write accident and disability insurance would be reflected in amendments to the Insurance Act.

Proposals Related to Licensing Requirements

39. It is proposed to require the submission of additional information to the Authority with respect to applications to license a commercial insurer in Bermuda. This proposal reflects the nature, scale and complexity of many Bermuda insurers and recent licence applications. It also reflects a raising of standards and licensing criteria for insurers in other leading insurance jurisdictions and as recommended by international insurance standard setters.

40. Specifically, applicants would be required to demonstrate through the submission of *pro forma* balance sheets and income statements that the ECR would be met at all times during the five years post-licensing (in addition to the current requirement to demonstrate compliance with the MSM).

41. In addition, the Authority would require the submission of high-level information on the corporate governance policies and risk management policies and procedures in place or to be adopted and implemented upon licensing, including an outsourcing policy. Applicants conducting key functions or underwriting activities through operations or third-party service providers would need to demonstrate that appropriate senior officer level staff are available to oversee the conduct of key functions and underwriting activities and that such arrangements would not impair the Authority's ability to supervise the company.

42. The level of detail expected in this information submission would reflect the nature, scale and complexity of the licence applicant, the activities proposed to be conducted and the degree to which the applicant(s) are known to the Authority.

43. The outsourcing policy would be required to include, at a minimum:

- a) the requirements for board or senior management prior review and approval of outsourcing arrangements and periodic on-going review of existing arrangements;
- b) a requirement for written outsourcing contracts that describe the rights and responsibilities of the parties thereto;
- c) a requirement that the outsourcing contract require the service provider to comply with all applicable laws and regulations, cooperate with the Authority and provide access to data and records in a timely manner;
- d) procedures for considering the impact of an outsourcing arrangement on the insurer's risk profile, including procedures for assessing the service capability and financial viability of the prospective service provider; and
- e) governance, risk management and internal controls for outsourcing arrangements.

44. High-level risk management policies and procedures would include a five-year business plan detailing the lines of business and risks underwritten or to be underwritten in each of the jurisdictions in which the company operates; a listing of reinsurance arrangements (both current and prospective); summary descriptions of the policies and procedures for the operation of the compliance; internal audit, risk management and actuarial functions in accordance with the Code of Conduct; and a high-level description of the policies and procedures in place or to be established for managing and mitigating conflicts of interest. These policies and procedures would be subject to post-licensing review by the Authority.

45. If adopted as proposed, the requirements for the submission of additional information in licensing applications would be reflected in an amended Information Bulletin on the insurance application process and published on the Authority's website.

Proposals Related to Changes in Business

46. Changes to the business of a commercial insurer or insurance group that are subject to the prior notification requirements of Section 30JB of the Insurance Act include amalgamation with or acquisition of another firm, certain transfers of long-term business, engaging in non-insurance business that is not ancillary to the insurance business of the insurer and engaging in unrelated retail business.

47. The Authority is of the view that the scope of the prior notification requirements may be inadequate in light of the complexity of some commercial insurers and insurance groups operating in Bermuda, evolving international standards and the heightened need for additional information demonstrated by the lessons learned in other jurisdictions from recent financial market disruptions. In addition, in order to exercise effectively its supervisory oversight of commercial insurers, it is essential that the Authority have timely and comprehensive information regarding changes to an insurer's business plan, activities or business lines that reasonably could be expected to change materially the insurer's risk profile, or could result in a material negative impact on solvency or liquidity. It is also essential that the Authority have the ability to object to any such changes. Therefore, the Authority proposes to expand the scope of the material changes in Section 30JA(1) of the Insurance Act that are subject to the 14-day prior notification requirements of Section 30JB and the power of the Authority to object pursuant to Section 30JC.

48. Reportable changes would specifically include:

- a) The prospective outsourcing of key functions or underwriting activities from the internal conduct of these functions to an external unrelated vendor;
- b) The acquisition of a controlling interest in, or creation of an entity conducting material financial business operations that offer products or services to unaffiliated third parties;
- c) Expansion into a material new line of insurance or reinsurance business, including material portfolio transfers (both inward and outward); and

d) Material divestitures.

49. A controlling interest would be defined by reference to the criteria contained in Section 1A(4) of the Insurance Act. The determination of materiality includes both quantitative and qualitative factors that involve the exercise of judgment by management. The Authority would grant appropriate deference to the reasonable judgment of management in this regard, including but not limited to the materiality standards of an appointed stock exchange as defined in the Companies Act 1981. The Authority specifically welcomes comment on other materiality standards that may be appropriate to apply to the consideration of reportable changes.

50. With respect to the prior notification of the outsourcing of key functions or underwriting activities, the Code of Conduct clearly states that an insurer should have oversight and clear accountability for all outsourced functions as if those functions were performed internally and subject to the insurer's own standards. The Group Supervision Rules place the responsibility for outsourcing arrangements on the senior executives of the parent company. In order to assess the impact of outsourcing on an insurer or group, it is necessary for the Authority to have prior notice of the outsourcing of, at a minimum, the risk management, compliance, internal audit and actuarial functions and underwriting activities. Notification to the Authority of other outsourcing arrangements would be welcome but not required.

51. If adopted as proposed, the additional material changes subject to prior notification and the ability of the Authority to object would be reflected in amendments to the Insurance Act.

Proposals Related to Minimum Margin of Solvency Floor, Reporting of Non-Compliance with MSM and ECR and Disclosure Requirements

52. The MSM is the capital level, the breach of which represents an unacceptable level of risk and triggers the strongest supervisory actions.

53. In order to better reflect the complexity and exposure to risk of many commercial insurers and to keep pace with international practice for the establishment of minimum capital standards for insurers, the Authority proposes to establish a floor for the MSM equal to 25 percent of the ECR at the legal entity level.

54. If adopted as proposed, the floor would be reflected in amendments to the Schedule to the Insurance Returns and Solvency Regulations 1980, effective for returns filed on or after January 1st, 2013.

55. Section 31A of the Insurance Act requires an insurer to file a written report with the Authority within 30 days of becoming aware of a failure to meet its MSM or having reason to believe that such a failure has occurred. The report must contain particulars of the circumstances leading to the failure and the manner and time within which the insurer intends to rectify the failure. Section 31AA of the Insurance Act requires an insurer that

fails to comply with the ECR to file a similar report within 14 days of becoming aware of the failure to comply or having reason to believe that such a failure has occurred. Moreover, in the event of a failure to comply with the ECR, the insurer is required to file with the Authority within 45 days unaudited interim statutory financial statements, the opinion of a loss reserve specialist, a general business solvency certificate and a capital and solvency return reflecting an ECR prepared using post-failure data.

56. To enhance these existing requirements for the protection of policyholders and provide more timely notice to the Authority, it is proposed to require commercial insurers to report *immediately* to the Authority upon becoming aware of any non-compliance with the MSM and/or ECR or having reason to believe that such non-compliance has occurred, and to file within 14 days a plan specifically outlining the actions to be taken by the insurer to restore the MSM and/or ECR to required levels. The Authority would have the power to require changes to the plan or the timeline if it finds either to be inadequate. The requirement to file with the Authority within 45 days unaudited interim statutory financial statements, the opinion of a loss reserve specialist, a general business solvency certificate and a capital and solvency return reflecting an ECR prepared using post-failure data would continue unchanged.

57. If adopted as proposed, the requirements to report non-compliance with the MSM and ECR and to file a corrective plan with the Authority would be reflected in the Insurance Act. The insurer would be subject to the provisions of Sections 31A and 31AA of the Insurance Act relating to the payment of dividends pending resolution of the non-compliance.

58. It is proposed to require commercial insurers (including insurance groups) to disclose publicly their compliance with the MSM and ECR. Commercial insurers and insurance groups would be required to disclose publicly and in a timely manner any material breach of the MSM or ECR. If adopted as proposed, these disclosure requirements would be reflected in amendments to the Schedule to the Insurance Returns and Solvency Regulations 1980 and the Group Supervision Rules, effective for returns filed on or after January 1st, 2013.