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BERMUDA MONETARY AUTHORITY

CONSULTATION PAPER ON DISCLOSURE AND TRANSPARENCY JUNE 2009

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0. Introduction

This consultation paper outlines the Bermuda Monetary Authority's ("the Authority") proposed approach to public and regulatory transparency disclosures. In this paper, ***regulatory disclosures*** relate to disclosures that are submitted to the Authority and *are not made public*.

This paper does not provide a comprehensive commentary on disclosure requirements, but rather only addresses proposed changes to existing and/or new (incremental) disclosures. Silence regarding an existing requirement means that it will continue in effect.

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 31st August 2009.

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1. Executive Summary

1. The Authority is proposing to enhance its disclosure and transparency regime (“disclosures regime” or “disclosures framework”) by introducing a number of additional qualitative and quantitative public and regulatory disclosure requirements. Initially, the proposals would apply only to Class 4 and Class 3B insurers¹ because of their more complex risk profile. Following further consultation, the Authority will extend some of these requirements to Class 3A license holders, in accordance with the proportionality principle.

2. The Authority considers its captive regime to be appropriate and consistent with international regulatory standards. Accordingly, no changes in this regard are planned; however, the regime will have to be reviewed regularly to keep pace with evolving international standards.

3. This paper is silent with respect to Long-term license holders. The Authority plans to publish a discussion paper on revisions to the Long-term regime in the fourth quarter of 2009.

4. The mission and vision of the Authority embraces protecting and enhancing “Bermuda’s reputation and position as a leading international financial centre”.² Accordingly, the Authority is committed to meeting international regulatory standards and ensuring that regulation is appropriate for the Bermuda market.

5. A key objective of insurance regulation, arising from the Authority’s overall mission and vision, is to protect both existing and prospective policyholders. This objective is achieved through ensuring that insurers are both solvent and have sufficient liquidity to meet their obligations, and policyholders have sufficient information to make informed choices. It also involves ensuring that insurers are appropriately managing their risks (or threats to their solvency and liquidity positions).

¹ In this paper, the term “insurer” also includes “reinsurer”.

² <http://www.bma.bm/about-us/mission-vision.html>.

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6. Both public and regulatory disclosures play an important role in facilitating the accomplishment of the aforementioned objective by providing both the Authority and stakeholders (who may include the policyholder or others seeking to benefit the policyholder, such as foreign regulators, analysts, rating agencies, etc.) sufficient information to monitor an insurer's operations and act accordingly. To continue to effectively fulfill its mission and vision and achieve the key insurance regulatory objective, the Authority proposes to enhance its existing disclosures regime.

7. International disclosure standards continue to evolve, and the Authority appreciates that it must keep pace. For this reason, and due to the unique characteristics of the Bermuda market, the Authority proposes a measured approach to the development of its enhanced disclosures regime. It is envisioned that proposals for enhanced disclosures will be adopted over three distinct phases. Phase 1 will cover the reporting periods 2009 to 2011. Phase 2 encompasses the reporting periods 2012 to 2014. Finally, Phase 3 comprises the reporting periods 2015 and beyond. This timeline is contingent to an extent upon the pace of international developments, and may slow or accelerate accordingly.

8. A number of key international debates associated with disclosure and transparency are occurring amongst regulators and standard setting bodies. The Authority has chosen to closely monitor, participate where possible and delay taking significant steps until outcomes are fairly certain. The proposed phasing methodology allows for international developments, while also taking into consideration the interconnectedness of the Authority's future initiatives, such as group-wide supervision.

9. Therefore, rather than setting out detailed proposals throughout, this paper outlines the Authority's disclosures framework at a high level, allowing developments to materialize, facilitating optimal decisions. At each subsequent stage, the Authority will renew consultation to ensure a participative process. This paper does however provide more detail with respect to Phase 1 where issues are both clearer and relate to the Authority's own assessment requirements.

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10. This paper has 12 main sections. Section 2 describes the context and reasons for the proposals. Section 3 highlights the international setting, and developments among the Bermuda market's major trading partners. Section 4 demonstrates both the Bermuda market's commitment and the Authority's resolve to collaborate to implement a regime that meets international standards, while befitting the characteristics of Bermuda insurers. Sections 5 and 6 outline the guiding principles underpinning the Authority's disclosures framework and the philosophy regarding the roles of public and regulatory disclosures. Section 7 describes the Authority's expectations with respect to the responsibility of the board of directors ("board") and senior management, and section 8 delineates the phasing proposal. Sections 9 to 11 address the implementation timeline of the proposals, the ability for an insurer to obtain waivers, and an alternative benefit of additional information. Section 12 outlines a parallel transparency initiative.

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2. Background

11. Bermuda is a major reinsurance market with Bermuda insurers providing insurance and reinsurance coverage globally.³ Bermuda insurers have varying risk profiles. The proposals in this paper are intended to initially apply to the higher profile Class 4 and Class 3B insurers.

12. The Authority has indicated its intention to cascade the enhanced solvency and associated disclosures regime to the rest of the commercial market in accordance with the principle of proportionality, which recognizes the difference in size, business mix, complexity, and risk profile of insurers.⁴ An enhanced disclosures regime for Class 3A insurers is proposed for 2011. The Authority appreciates that some of the proposals in this paper would not be appropriate for Class 3A insurers, and (as such) plans a separate consultation prior to applying any revisions to this class to ensure an appropriate result.

13. The Authority considers the existing captive regime to be appropriate and comparable with international regulatory standards; however, the regime would have to be reviewed regularly in light of international developments. Should revisions be required, as with other classes, the Authority “is committed to working with the captive market to achieve the right result for Bermuda, and will ensure robust application of the proportionality principles to ensure an appropriate measured response”.⁵

14. This paper does not address Long-term insurers. The Authority plans to publish a discussion paper regarding Long-term insurers in the fourth quarter of 2009, and a consultation paper in 2010. Proposals regarding solvency and associated disclosures will be contained in those papers.

³ IMF - “Assessment of Financial Sector Supervision and Regulation in Bermuda”, October 2008, Pg 4.

⁴ BMA - “Bermuda’s Insurance Solvency Framework - The Roadmap to Mutual Recognition”, March 2009, Pg 1.

⁵ IBID, Pg 3.

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15. The Authority's mission and vision embraces protecting and enhancing "Bermuda's reputation and position as a leading international financial centre".⁶ Towards this end, the Authority is committed to meeting international regulatory standards and ensuring that regulation appropriately addresses the characteristics of the Bermuda market.

16. The Authority views the protection of both existing and prospective policyholders, through appropriate insurance regulation, as a key objective contributing to its overall mission and vision. This objective is achieved through ensuring that insurers are both solvent and have sufficient liquidity to meet their obligations, and policyholders have sufficient information to make informed choices. It also involves ensuring that insurers are appropriately managing their risks (or threats to their solvency and liquidity positions).

17. Being both solvent and liquid implies having sufficient and appropriate capital resources. The appropriate level of capital, or capital adequacy, is largely a function of an insurer's risk profile. Accordingly, regulators assess an insurer's risk profile to determine an insurer's regulatory capital requirement.

18. Many facets contribute to determining a risk profile. These include assessments of the risk characteristics of the business written, invested assets, and contingent obligations. Also involved is determining the level of governance and risk management necessary to sustain prudent operations. Sufficient information is critical to this assessment process. Conversely, the absence of appropriate information can prevent supervisors from understanding and making the appropriate assessment. As insurers innovate or engage in increasingly more complex transactions and structural arrangements, assessments become more difficult. Supervisors must adapt by enhancing disclosures to properly determine risk profiles.

19. Over the past few years, the Authority has been working to enhance its solvency regime with initial focus on Class 4 insurers through the introduction of a risk-based capital model,

⁶ <http://www.bma.bm/about-us/mission-vision.html>.

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Bermuda Solvency Capital Requirement (“the BSCR”), and enhanced disclosures to facilitate the understanding of the financial condition of Class 4 insurers.

20. The Authority has made significant progress with its risk-based supervisory and solvency framework. Validating the Authority’s continued progress, the 2008 International Monetary Fund (“IMF”) report concluded that Bermuda’s “insurance supervision for the commercial insurers and reinsurers has a high level of observance of the International Association of Insurance Supervisors [“the IAIS”] Insurance Core Principles” (“ICP”).⁷

21. While international debates continue and standards evolve, the Authority wishes to prepare Bermuda for upcoming international developments by proposing a measured approach to disclosure and transparency. This will span over three phases with each phase forming a building block for the next. These three phases will afford the Authority the opportunity to continue enhancing its disclosures regime to keep step with evolving international best practice while allowing the jurisdiction time to deliberate and decide upon the most appropriate application of issues being considered by the international bodies.

22. In the first phase, reporting periods 2009 through to 2011, the Authority seeks to enhance and standardize regulatory disclosures on risk management, governance, and related financial information to provide a more complete understanding of insurers’ risk characteristics or risk profiles. During this period, the Authority will also research and consult stakeholders on current international issues such as group-wide supervision, own risk and solvency assessment (“ORSA”), and economic balance sheet.

23. Phases 2 (reporting periods 2012 to 2014) and 3 (reporting periods 2015 and beyond) will primarily be dedicated to requiring public disclosures. It is anticipated that Solvency II will grant a transition period for Pillar 3 (public disclosures) after its implementation. The Authority proposes to take a similar approach, incorporating a transition period within the implementation (i.e. requiring at Phase 2 public disclosures that would achieve broadly equivalent outcomes as

⁷ IMF - “Assessment of Financial Sector Supervision and Regulation in Bermuda”, October 2008, Pg 4.

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that at Solvency II's implementation. Phase 3 would be a transition period with additional disclosures determined through observance of international standards and market consultation at that time). The Authority will also review the sufficiency of regulatory disclosures at Phases 2 and 3 and propose enhancements accordingly.

24. Aside from requiring insurers to make their audited general purpose financial statements public from the 2008 reporting year, the Authority proposes to delay requiring public disclosure due to the unique characteristics of the Bermuda market. The Authority appreciates that the Bermuda market is specialized and sophisticated, being primarily a wholesale market (business to business transactions). Such policyholders are generally in a position to gain a substantial amount of information to meet their respective needs prior to entering into contractual arrangements. The characteristics of the information required for business to business transactions also differ from that required for retail transactions.

25. The phased approach, while allowing the Authority to monitor international developments, also provides an opportunity to further study possible business to business information gaps (affording stakeholders the ability to engage in dialogue with the Authority). This will assist the Authority in ensuring that appropriate information (or that desired by stakeholders) is required to be made public, avoiding burdening Bermuda insurers with publicly disclosing information that is not useful.

26. Legislation is the mechanism that grants the Authority the power to obtain necessary information to supervise insurers. Additional legislation will be required to effect the proposals in this paper. The Authority proposes to have enabling and secondary legislation, enacted on an annual basis over the 3 phases, to achieve the reporting year(s) implementation objectives (i.e. the disclosures to be submitted) as outlined in section 8 and Appendices A and B of this paper. The Authority will consult with the Bermuda market at each phase and on the respective annual legislative drafts.

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3. International Developments

27. Growth in the international market over the past ten years coupled with an increase in the complexity of organizational structures and insurance / financial products have highlighted the need for reform within supervisory bodies around the world. These key issues are being debated within the IAIS, European Union (“the EU”), and United States’ (“US”) National Association of Insurance Commissioners (“the NAIC”). Further, the current financial crisis underlines the interconnectedness of markets, forcing supervisors to re-examine their oversight responsibilities. The recommendations arising from these discussions will impact global supervisory and regulatory frameworks.

28. Further, the final report of the Group of Twenty Finance Ministers and Central Bank of Governors Working Group highlighted the need for reform in regulatory frameworks to avoid the emergence of similar financial crises and to mitigate the consequence(s) of any future episodes of financial stress.⁸

29. The report indicated that the type of information that was disclosed by firms prior to the financial crisis was not sufficiently timely or useful to the users of the information. It asserted that information inadequately communicated company exposure, including credit risk and market exposures.⁹ These recommendations will likely impact the current debates at the IAIS, in the EU with the Solvency II framework, and the NAIC’s modernization efforts. The Authority will continue to monitor these developments closely.

30. One of the IAIS’s objectives is to promote financial stability by working closely with other financial sector standard setting bodies and international organizations.¹⁰ In October 2003, the IAIS published its ICPs and methodology.¹¹ ICP 26 relates to transparency and disclosures.

⁸ G20 - “G20 Working Group 1 - Enhancing Sound Regulation and Strengthening Transparency”, March 25 2009.

⁹ IBID – Pg 39.

¹⁰ <http://www.iaisweb.org/index.cfm?pageID=28>.

¹¹ IAIS - “International Association of Insurance Supervisors - Insurance Core Principles and Methodology”, October 2003.

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The IAIS has also published standards to supplement and assist in interpreting ICP 26¹², prescribing the minimum level of information to be disclosed. The IAIS continues to be a key driver of regulatory enhancements by highlighting and addressing issues affecting the global insurance industry. The Authority is an active member of the IAIS, and uses IAIS principles as a guide for developing Bermuda's regulatory regime.

31. Substantive change is occurring in the major markets where Bermuda insurers conduct business. In the US, the NAIC adopted the "Reinsurance Regulatory Modernization Framework Proposal Memorandum" in 2008. The EU has also recently adopted proposals to overhaul its insurance regulatory regime through Solvency II. Among other objectives, these enhancements will seek to improve the operational efficiency of the respective insurance markets and approach a level playing field for market participants, including that insurers from foreign jurisdictions can be assessed as being broadly equivalent. Transparency is important to the Authority and will likely be a key component of jurisdictional equivalence assessments. Should the Authority be assessed as being broadly equivalent with key jurisdictions, benefits accruing to Bermuda insurers include:

- Ability to compete in global markets on a non-discriminatory basis;
- Lower risk of multiple capital requirements;
- Removal of the need for group solvency calculations on a number of different regulatory fronts; and
- Improved ability to optimise (and increased fungibility of) group capital.¹³

4. Bermuda Market Transparency Taskforce

32. The Authority has always valued its strong working relationship with the insurance sector in matters related to legislative and regulatory enhancements. Towards this end, a Transparency

¹² IAIS - "Standard on Disclosures Concerning Technical Performance and Risks for Non-life Insurers and Reinsurers", October 2004, and IAIS - "Standard on Disclosures Concerning Investment Risks and Performance for Insurers and Reinsurers", October 2005.

¹³ BMA - "Bermuda's Insurance Solvency Framework - The Roadmap to Mutual Recognition", March 2009, Pg 1.

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Taskforce (“the Taskforce”) was formed and comprised mainly of representatives from the Authority and market participants from Class 4 and Class 3B insurers. The Taskforce’s mandate was to research both international regulatory initiatives and existing industry practice, and recommend enhancements to the Authority’s commercial market regime to ensure that Bermuda disclosures regulation is appropriate and broadly equivalent with international standards.

33. The Taskforce formed a Workgroup comprised primarily of members of the Association of Bermuda Insurers and Reinsurers (“ABIR”) to conduct research and submit proposals for the Taskforce’s consideration. An internal report from the Workgroup, endorsed by the Taskforce, was presented to the Authority with recommendations and issues for further consideration. A number of the proposals in this paper were predicated on the recommendations of the Workgroup and the Taskforce.

5. Guiding Principles for Disclosures

34. The Workgroup recommended specific principles that should underpin the Authority’s disclosures framework. In determining its own principles, the Authority reviewed and adapted the recommendations as follows:

- Regulatory disclosures should be more timely and comprehensive than public disclosures, but limited to information applicable to the prudent supervision of insurers. In determining regulatory disclosures, due regard should be given to the necessary balance between the benefits of additional information and the cost incurred by insurers;
- Public disclosures should be reliable, clear, understandable, consistent, relevant, and material having due regard for information that would compromise competitive advantage and confidentiality; and
- Disclosures should be developed and implemented in tandem with international standards and be proportional to the size, business mix, complexity, and the risk profile of insurers.

6. Role of Regulatory and Public Disclosures

35. In this paper, regulatory disclosures are disclosures submitted to the Authority and are not made public. Public disclosures, on the other hand, are published either in printed or electronic form.

36. As noted in paragraphs 16 to 18, the role of regulatory disclosures is to allow the supervisor to appropriately assess an insurer's risk profile and ability to meet its obligations. The Committee of European Insurance and Occupational Pensions Supervisors ("CEIOPS") recommended to the European Commission that regulatory disclosures should support a risk-based approach to supervision and must minimally include pertinent information that the supervisor requires to perform its functions.¹⁴

37. With respect to public disclosures, ICP 26 asserts that "the supervisory authority requires insurers to disclose relevant information on a timely basis in order to give stakeholders a clear view of their [the insurers'] business activities and financial position and to facilitate the understanding of the risks to which they are exposed".¹⁵

38. Simply stated, the purpose of public disclosure is to improve the ability of market participants, including policyholders, to assess the financial position of insurers and associated risks. Supervisors have a role to play in ensuring that insurers provide this information. Further, insurers with strong risk management practices may be rewarded as market participants, armed with enhanced information, make more informed choices.¹⁶

39. The information that is disclosed to market participants should be broad enough to allow for a thorough review of an insurer's financial condition, performance, business activities, and

¹⁴ CEIOPS – "Advice to the European Commission of Supervisory Reporting and Public Disclosure in the Framework of the Solvency II Project", March 2007.

¹⁵ IAIS – "Insurance Core Principles and Methodology", October 2003, Pg 42.

¹⁶ IAIS – "Guidance Paper on Public Disclosure by Insurers", January 2002, Pg 3.

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associated risks. However, public disclosure of information should not compromise competitive advantage and confidentiality.

40. Cooperation between supervisors is consistently recommended in discussions related to the current financial crisis. Regulators around the world often enter into Memorandums of Understanding (“MOU”) to exchange information to better understand the international operations of the insurers they regulate. Notwithstanding, regulators sometimes bypass formal arrangements and search for similar information through public means. As the transparency push gains momentum, there is a higher expectation of regulators that leading jurisdictions will ensure sufficient public information is available on internationally active insurers. Other stakeholders (such as counterparties and those seeking to benefit policyholders - supranational bodies, analysts, and rating agencies, etc.) have similar expectations.

7. Role of Board and Senior Management

41. The board and senior management are responsible for the prudent administration of the respective organization. This includes ensuring that appropriate controls are in place, including those around reporting systems. In this regard, the Authority expects the board and senior management to ensure that the information provided both to the Authority and the public has been prepared in utmost good faith and is in compliance with Bermuda’s laws and regulations. The board and senior management are expected to deal with the Authority in an open and cooperative manner.¹⁷ Although external resources may be employed, such as external auditors and actuaries, the ultimate responsibility for public and regulatory disclosures lies with the board and senior management. It is envisioned that elements of the enhanced disclosure proposals will require formal declarations from the board and senior management.

¹⁷ BMA – “Guidance Note #12 - Corporate Governance”, March 2005.

8. Phasing Proposal

42. The Authority envisions the development of its disclosures framework to span over three phases with each phase designed to be a building block for the next. The Authority appreciates the scale of the proposed regime and will seek to further consult and conduct training sessions with Class 4 and Class 3B insurers to facilitate as efficient a transition as possible.

8.1 Phase 1

43. Phase 1 will cover the reporting periods 2009 to 2011. The primary focus will be on standardizing regulatory disclosures, and in 2011 preparing for the public disclosures proposed for Phase 2 (beginning 2012). As an exception, audited general purpose financial statements will be made publicly available during Phase 1. In some cases, requirements for Class 3B insurers will lag those of Class 4.

44. The Authority anticipates at this time that only disclosure revisions to existing audited statutory financial statements and general purpose financial statements required under Section 17A of the Insurance Act 1978 (“the Act”), will need to be audited. Declarations however may be required from the board and senior management or other qualified professionals, such as actuaries.

45. Further, apart from the audited general purpose financial statements, the Authority at this point does not propose to require insurers to make information public until 2012; however, this timeline may be accelerated or slowed depending upon stakeholder needs and international developments. To ensure consistency and appropriateness of public disclosures, the Authority will seek to determine the specific public disclosures by 2011 and require a trial run in that reporting year to allow for relevant feedback in preparation for 2012. The disclosures submitted during the trial run year will remain with the Authority and not be made public. In finalizing its public disclosure proposals, the Authority will be guided by the principles outlined in paragraph 34.

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46. Class 4 insurers were required to make their audited general purpose financial statements public from the 2008 reporting year. The Authority proposes the same requirement for Class 3B insurers from the 2010 reporting year.

47. The Authority appreciates that the Phase 1 proposals will require some preparation time; therefore, the proposed collection period has been extended over three reporting periods. It is intended that the proposed submissions be made with the annual statutory filing (unless stated otherwise). The Authority recognizes that, at least initially, insurers may require use of the extension provisions under Section 17 of the Act. A summary of the Phase 1 incremental timeline follows (henceforth, all disclosures, other than those referred to as group disclosures, relate to the legal entity).

48. Having reviewed the regulatory regime and gleaned lessons from the 2007 year-end BSCR trial run, the Authority believes that additional disclosures are required in the following areas:

- Governance;
- Risk management;
- Underwriting performance;
- Investments and derivatives;
- Preparation for group-wide supervision; and
- Ad hoc disclosures.

49. While a standard listing follows, the Authority expects the extent of the disclosures to be proportional, consistent with the respective insurer's size, business mix, complexity and risk profile as outlined in paragraph 34.

50. Moreover, the audited general purpose financial statements to be made public disclose an enormous amount of risk management and other types of information. And the standards relating to these statements are evolving. To the extent that the Authority's information requirements outlined below can be satisfied with disclosures in the general purpose financial

statements then insurers may in their regulatory submissions direct the Authority to the appropriate sections in the general purpose financial statements and avoid submitting the same information twice.

8.1.1 Governance

51. The Authority's current regulatory regime is primarily solo (legal entity) based. Group effects are considered during on-site assessments with particular focus on the insurer's importance to the group and intra-group exposures. A substantial amount of information is collected in this regard; however, much could occur between assessments. As a result, the Authority proposes to incorporate aspects of this information into the regular filing. Where information is somewhat static, such as corporate and board structure, the Authority proposes an initial full disclosure for the first filing preceded by annual updates for subsequent filings. This process should also streamline information collection during on-site visits since the Authority would already have more timely records. The governance disclosures proposed are:

- Board and executive management, including roles, work experience and board sub-committees (terms of reference of such sub-committees). This would allow the Authority to be informed regarding both those influencing the operations and the general governance structure of the insurer; and
- Intra-group exposures (i.e. material transactions between the insurer and other members of the group including guarantees). This would assist in determining the risk concentration within the group.

8.1.2 Risk Management

52. The additional disclosures related to risk management involve standardization and/or expansion of existing information provided in Schedule V ("Schedule V") of the Capital and Solvency Return ("CSR"), Insurance Prudential Standards (Class 4 Solvency Requirement) Order 2008.

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53. Paragraph 2(j) of Schedule V requires insurers to provide a description of their risk management program. This includes discussion of the processes and procedures in place to monitor exposures and aggregates, and risk mitigation controls established in the event that probabilistic expectations are exceeded. The objective of this disclosure is to assist the Authority in determining how the insurer establishes its risk appetite and how it both monitors and mitigates exposures, particularly under extreme event conditions.

54. These broad instructions have led to submissions of varying degrees of usefulness to the Authority's assessment. To clarify its expectations, the Authority proposes to amend paragraph 2(j) to be both more specific and substantially consistent with existing Class 4 insurer submissions found to be most useful. The revision, with phased implementation over the 2009 and 2010 reporting periods, would require that this disclosure include discussion of the insurer's risk management program, risk appetite, risk concentration, risk control, liquidity and off-balance sheet financial instruments:

- Risk management discussion should cover the approach for identifying, managing, measuring and disclosing material risks. The submission should disclose:
 - a. description of the risk management process, including how it is used for strategic management decision-making and capital allocation and adequacy; and
 - b. governance surrounding the process (i.e. identification of the owners of the process and the extent of the board's involvement).
- Risk appetite discussion should cover the approach for determining and enforcing appetite/limits. The submission should disclose:
 - a. process for setting and embedding risk limits; and
 - b. identification of the types of stress testing carried out to ascertain the suitability of the risk appetite.
- Risk concentration discussion should cover the process undertaken to monitor material risk concentration and calculate probable maximum loss.

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- Risk control discussion should cover the risk control and mitigation strategy, and details of the following:
 - a. material breaches in controls during the reporting period and resulting changes (if any) to prevent future breaches;
 - b. description of reinsurance purchasing strategy;
 - c. narrative surrounding actual disaster plans, including disaster mitigation and monitoring; and
 - d. risk register analysis.
- Liquidity discussion should cover the approach for managing and monitoring liquidity, general sources of liquidity, description of stress testing carried out to determine liquidity requirements, and contingent liquidity in the event general sources of liquidity are inadequate.
- Off-balance sheet financial instruments discussion should cover how these instruments are used and key features, including risk characteristics, and aggregate exposure by type.

8.1.3 Underwriting Performance

55. The reserve risk charge is a major component of the BSCR, and thus a key determinant of capital adequacy. The Authority proposes the requirement of a reconciliation between the beginning and ending net loss reserve balances for each statutory line of business (“LOB”). This would allow the Authority to study both industry and insurer specific trends and identify major sources of loss reserve releases or adverse development. Components of the proposed reconciliation would include:

[Reporting year] beginning balance for [LOB]	\$XXX
Less: Claims paid in reporting year	\$XXX
Add(Less): Net loss releases/net adverse development for prior years	\$XXX

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Add: Case reserves and IBNR ¹⁸ recorded during year	\$XXX
Add(Less): Foreign exchange adjustments	<u>\$XXX</u>
[Reporting year] ending balance for [LOB]	\$XXX

56. As an alternative, the Authority may allow the submission of loss triangles or other information if an insurer believes that this would be better aligned with its business model, and would allow the Authority to achieve the same objectives. Alternatives would require prior written approval.

57. Apart from the gross/net probable maximum loss and average aggregate loss numbers, the BSCR uses the reporting year as a proxy for upcoming business activity to project an insurer's capital requirement over the next year. Schedule V currently requires an insurer to report projected net premiums written. This is one of the means used to test the suitability of the proxy. To obtain a more in-depth understanding of the projected net premiums number, the Authority proposes to require a qualitative description of the insurer's intended underwriting strategy (e.g. major areas of planned focus and anticipated material changes to the reporting year's strategy).

8.1.4 Investments and Derivatives

58. Schedule V also requires an insurer to disclose its effective duration for its investment assets and insurance obligations. The Authority proposes to expand this disclosure to include a description of an insurer's process for calculating these numbers and key assumptions, such as the basis point movement used in the insurer's modelling to arrive at final calculations. Schedule VI comprises a listing of an insurer's fixed asset portfolio. The Authority proposes to require a high level description of an insurer's investment policy detailing the strategy guiding investment portfolio composition and return objectives.

59. Form 1A (statutory balance sheet) of Schedule I of the Insurance Accounts Regulations 1980 ("the Accounts Regulations") was amended in 2008 to contain line items solely for

¹⁸ The term "IBNR" refers to "incurred but not reported".

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derivatives. The Authority proposes to standardize the disclosures and prescribe information that would be useful in its analysis. The disclosures should include:

- Description of policies surrounding the use of derivatives; and
- Market value and nominal exposure of each individual financial instrument with a nominal exposure greater than 5% of total assets. The disclosure should be separated by assets, liabilities, long and short positions respectively.

8.1.5 CSR

60. The Authority proposes to require Class 3B insurers to submit a trial run CSR for the 2009 reporting year, including the BSCR. Implementation is proposed for the 2010 reporting year. Since guidance can be found in other documents, the Authority has not sought to describe the CSR in this paper. The Authority will hold market meetings with Class 3B insurers throughout 2009 to assist them with the process.

8.1.6 Preparation for Group-wide Supervision

61. The Authority indicated in its “Discussion paper on implementing group-wide supervision” (March 2009) (“the group’s discussion paper”) that it would request that “Class 4 and Class 3B insurers submit information on a number of group-related issues.” The group’s discussion paper advised that the information would be used to assist the Authority in developing its group-wide supervision policy. The group’s discussion paper also communicated the Authority’s intention that the data collection would help focus insurers “on the key issues raised in this paper”. For this exercise, an insurer would be required to:

- Identify, in its opinion, its group-wide supervisor under the approach described in the group’s discussion paper;
- Indicate whether it is currently subject to group-wide supervision and (if so) its group solvency calculations;

- Provide an inventory of material intra-group transactions; and
- Provide a listing of group legal entities separated by regulated, unregulated, EU, US and other.¹⁹

8.1.7 Ad hoc Disclosures

62. The Authority indicated in its 2009 market communication that it would hold quantitative impact studies (“QIS”) in 2010 for insurers and 2011 for groups.²⁰ The purpose of these studies is to ensure that the BSCR is properly calibrated and comparable to EU and US solvency regimes. The Authority will invite market participation to assist in this very important process.

8.1.8 Related Initiatives

63. As noted in the Authority’s 2009 market communication,²¹ the implementation of several initiatives is proposed for 2011. That communication provides a detailed description of each initiative so the Authority has not sought to describe them in this paper. The Authority will ensure that its disclosures regime is consistent with these initiatives. These initiatives will in some areas require unique disclosures (some still to be determined). The initiatives are as follows:

- Group-wide supervision;
- ORSA; and
- Economic Balance Sheet.

64. These initiatives are in varying stages of development. Since the group’s discussion paper was published in March 2009,²² related group disclosures, to a large extent, are more

¹⁹ BMA - “Discussion Paper on Implementing Group-wide Supervision”, 31st March 2009, Pgs 40-41.

²⁰ BMA - “Bermuda’s Insurance Solvency Framework - The Roadmap to Mutual Recognition”, March 2009, Pg 6.

²¹ IBID

²² BMA - “Discussion paper on implementing group-wide supervision”, 31st March 2009.

predictable at this point and are outlined below. However, amendments to these proposals may occur as the group-wide supervisory policy is developed.

8.1.8.1 Group-wide supervision

65. As discussed in paragraph 27, the financial crisis has highlighted the interconnectedness of markets and emphasized the importance of having a holistic view of groups as single economic units. Group-wide supervision, albeit not a new concept, is now widely agreed as the next step forward in regulatory oversight.

66. Endorsing the approach, the IAIS published its views on group-wide supervision in its ICP 17. The ICP requires that regulators supervise at both a solo and group level. That ICP further explains that group-wide supervision *supplements solo supervision; it does not replace it*. The same concept is expressed in the IAIS “Guidance paper on the role and responsibilities of the group-wide supervisor” (October 2008). The implication is that regulators should continue to require sufficient legal entity information to assess risks at the solo level even after implementing group-wide supervision.

67. The group’s discussion paper was published seeking views from stakeholders on the Authority’s proposed group-wide supervisory framework. The group’s discussion paper emphasizes the critical need for supervisory cooperation in gaining a holistic view of insurance groups. This cooperation can be facilitated by the appointment of a group-wide supervisor. The group’s discussion paper also discusses that the role of a group-wide supervisor is primarily to “coordinate” the input of solo supervisors. This allows the group-wide supervisor to assume ultimate responsibility for the assessment of the overall risk and solvency of the group.²³

68. In accordance with ICP 17, where an insurer is subject to the Authority’s proposed group-wide supervisory framework, legal entity reporting requirements would still be imposed on the Bermuda legal entity and the Authority (if appointed the group-wide supervisor) proposes

²³ IAIS - “Guidance Paper on the Role and Responsibilities of a group-wide supervisor”, October 2008.

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to collect **both** group and legal entity information. Such group statutory reporting may include information related to the BSCR and related schedules, risk management and governance, underwriting performance, investments and derivatives, and any ad-hoc disclosures required for the assessment of group risks and the calculation of group solvency. Under these proposals, all group legal entities whether regulated or not and whether based in Bermuda or not, **must** be included in this assessment.

69. Financial statements and solvency calculations are examples of likely selections for both group and legal entity submissions. However, policies surrounding risk management and governance are often centralized, and cascaded from the parent throughout the group. In this regard, much of the risk management and governance information would generally be equally applicable to both an insurer and its group. The Authority would in such cases allow application for a single disclosure covering both the legal entity and group levels (see paragraph 91).

70. In situations where the Authority is not the group-wide supervisor, generally only legal entity reporting would be required. However, this would not preclude the Authority from requesting any additional related information it deems to be necessary.

71. Within a group-wide supervisory framework, the Authority (whether group-wide supervisor or not) appreciates the need for information exchange with other supervisors for regulatory purposes.

8.1.8.1.a Group Statutory Reporting Requirements and Frequency

72. The Authority proposes to integrate the group statutory reporting requirements with the existing legal entity filing process (annual statutory financial return and CSR). However, the Authority has indicated in the group's discussion paper that it would require quarterly reporting of certain group items.²⁴ These include information related to intra-group exposures and concentration risks. Additionally, the Authority proposes to collect quarterly unaudited group

²⁴ BM A - "Discussion paper on implementing group-wide supervision", 31st March 2009, Pg 32.

management accounts to accompany this information to ensure that its knowledge of Bermuda groups is both timely and relevant. The Authority does not propose to require a full group statutory financial return or CSR for quarterly filings.

8.1.8.1.b Governance and Risk Management

73. Due to the centralized control of strategic planning and risk management prevalent in most groups, as a group-wide supervisor, it is important that the Authority be in a position to assess the fitness and propriety of those making the key decisions. The Authority therefore proposes to require disclosure of group board and executive management details, including roles, work experience and board sub-committees (terms of reference of such sub-committees) similar to that mentioned in paragraph 51. In fact, it is envisioned that the respective disclosures could be consolidated to avoid duplication where possible.

74. Sound governance and risk management in some cases better mitigate risks than capital requirements. The group's discussion paper outlines the Authority's proposed group corporate governance and risk management regulatory framework. The Authority proposes to require additional group disclosures to assess the effectiveness of a group's governance and risk management between on-site visits. The existing Commercial Insurer Risk Assessment ("CIRA") tool embedded into the BSCR may be extended to incorporate a group's operational risk assessment, given that the BSCR will likely be adapted to also serve as a group risk-based capital model.

8.1.8.1.c Group Solvency and Intra-Group Exposure

75. The Authority also proposed in the group's discussion paper that it will implement a flexible approach to assess group capital adequacy, allowing the consolidation, risk-based aggregation, and aspects of the group legal entity approaches (subject to approval by the Authority).²⁵ These will all require different types of information. The risk-based aggregation

²⁵ IBID – Pg 27 – 28.

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approach will require the group to submit the capital requirements from respective group legal entities so that these can be consolidated to derive a group's capital requirement. Where the consolidation approach is employed, required inputs for the group BSCR model may be necessary.

76. The Authority appreciates that the group support proposal has been removed from the Solvency II Directive; however, the Authority has expressed its intention to explore this option with the market and other jurisdictions. In the event group support is adopted by the Authority, the group's discussion paper outlined certain information requirements necessary for approval. This information would necessarily require updating on a regular basis, including annual declarations to ensure circumstances remain unchanged. The proposed information includes:

- Declaration of group support backed by a legally binding document to be approved by the Authority; and
- Information on any developments that could potentially hinder the transferability of capital.²⁶

77. Intra-group transactions are at the source of a variety of complex issues that impact a group's solvency. The group's discussion paper outlined the importance of appropriate disclosures in this regard, including a requirement to submit a modelled assessment when entities in the group are making application to either have certain instruments approved as other fixed capital or obtain a waiver of the recognition of specific contingent liabilities.²⁷ The modelled assessment would naturally have to be submitted minimally with the annual filing, and more frequently where events occur that could materially affect the valuation of the underlying instruments. Further, as noted in paragraph 72, certain intra-group exposures are proposed for quarterly statutory reporting requirements.

²⁶ IBID – Pg 30.

²⁷ IBID – Pg 31 – 32.

78. Unregulated financial and non-financial entities could pose significant exposure for groups. The group's discussion paper outlined the Authority's proposals for addressing such risk and the methodology for incorporating the impact of these entities into the solvency assessment.²⁸ This proposal would necessitate the Authority requiring a listing and material information related to business activities for both regulated and unregulated group legal entities on minimally an annual basis. The level of detail for each entity should be in proportion to the exposure it presents to the group.

8.1.8.1.d Supervisory Cooperation

79. The group's discussion paper also proposed the information that other supervisors of Bermuda group entities would be encouraged to share with the Authority. To the extent that the Authority is unsuccessful in obtaining this information from other supervisors, obligations may be placed upon the group to disclose it to the Authority. The disclosures include:

- Legal structure of insurers belonging to the group;
- Granting and withdrawal of licenses for group entities;
- Changes in the board or executive management of group entities;
- Changes in risk management and control systems;
- Significant developments affecting the financial condition of the group or group entities (including loss portfolio transfers);
- Location of significant business;
- Significant group entity investments;
- Transfer of risks to unregulated entities; and
- Presence of factors increasing the likelihood of contagion.²⁹

²⁸ IBID – Pg 38.

²⁹ IBID – Pg 23.

8.1.8.1.e Public Disclosures

80. The Authority for the most part will take the same approach for group public disclosures as was outlined in paragraph 44 for legal entity public disclosures. Audited group general purpose financial statements³⁰ will be required to be made public. Additional group disclosures (regarding risk management and governance issues – see paragraph 73 for further discussion) generally will not require an audit, but formal declarations may be required from the board and senior management or other qualified external professionals (such as actuaries). Such disclosures will be determined in line with international developments and will have regard for the characteristics of the Bermuda market.

81. A number of Bermuda insurers belong to groups that are listed and file public group disclosures with listed exchanges such as the US Securities Exchange Commission. In endeavouring to meet stakeholder needs and comply with international standards, the Authority will seek to leverage and adopt as much as possible the same group disclosures into its groups regime to reduce the administrative burden on Bermuda insurers.

8.1.8.2 ORSA

82. The disclosures applicable to the ORSA will be communicated in the ORSA consultation paper to be published in quarter three of 2009. The Authority believes that the risk related disclosures outlined above would be consistent with a subset required by the ORSA; however, where differences arise in related areas, the Authority would amend to eliminate duplication.

8.1.8.3 Economic Balance Sheet

83. The Authority proposes the introduction of an economic balance sheet. It is believed that this approach would more closely represent the economic position of insurers. The IAIS has recommended this approach, asserting that “insurer management, regulation and supervision

³⁰ IBID – Pg 39.

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need to be firmly rooted in economic valuation. Only a current economic valuation of assets, obligations and risk exposures related to all balance sheet items can provide sufficiently relevant and reliable information and insight into the financial position of the insurer”.³¹ This is also the method chosen for Solvency II. In its paper “Lessons learned from the crisis (Solvency II and beyond)”, CEIOPS affirms Recital 27 of the Solvency II framework Directive: “CEIOPS considers that the economic valuation of assets and liabilities should remain as valid, and necessary, for a project like Solvency II” (Pg 24).

84. The Authority will begin discussions with the market on this issue in 2009, including forming an Industry Roundtable (“the Roundtable”) during the second quarter of 2009 for the purposes of further examining this matter in the third quarter of 2009. A key issue would be the means to achieve an economic balance sheet. The Authority’s preliminary thoughts are that the most efficient method to arrive at an economic statutory balance sheet would be to replace the statutory financial statements (Forms 1A, 2A and 8 of the Accounts Regulations) with audited general purpose, or public, financial statements and then require a reconciling schedule to apply prudential filters. Examples of prudential filters would include elimination of non-admitted assets and adjustments to loss reserves.

85. This appears to be the method that the EU will adopt. In this regard, CEIOPS indicates that “valuation standards for supervisory purposes should not require ... a second set of accounts although prudential filters may need to be applied. They should be compatible with international accounting developments ... so as to limit the administrative burden on insurance or reinsurance undertakings”.³² This approach is also supported by the IAIS: “the IAIS has a clear preference for as much similarity between public financial reporting and prudential reporting for solvency assessment purposes as is appropriate”.³³

³¹ IAIS – “The IAIS Common Structure for the Assessment of Insurer Solvency”, February 2007, Pg 19 – 20.

³² CEIOPS – “Lessons learnt from the crisis (Solvency II and beyond)”, 19th March 2009, Pg 23.

³³ IAIS – “Towards a Common Structure and Common Standards for the Assessment of Insurer Solvency: Cornerstone for the Formulation of Regulatory Financial Requirements”, October 2005, Pg 6.

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86. This would allow the Authority to use public financial statement disclosures for its internal assessment (effectively eliminating the insurer's need to provide separate disclosures for this area). However, the Authority appreciates that this would likely generate different BSCR results, given public accounting requires consolidation whereas statutory accounting does not. The Authority will use the 2008 year end filing to conduct an impact assessment of such a policy and explore the topic with the Roundtable before determining whether or not to progress.

8.1.9 Summary of Phase 1 Disclosures

87. The following summarizes the Phase 1 disclosures, and outlines the proposed effective reporting years. These are then consolidated on Appendices A and B.

8.1.9.1 2009 Reporting Year

Class 4 Insurers

2009	
<i>Categories</i>	<i>New Disclosures</i>
Governance	➤ Board and executive management, including roles, work experience and board sub-committees (terms of reference of such sub-committees); and ➤ Intra-group exposures.
Risk management	➤ Description of the risk management process; ➤ Governance surrounding the risk management process; ➤ Process for setting and embedding risk limits; ➤ Identification of the types of stress testing carried out to ascertain the suitability of the risk appetite; and ➤ Process undertaken to monitor material risk concentration.
Investments and derivatives	➤ Description of the process for calculating the effective duration for both investment assets and insurance obligations and key assumptions; ➤ Description of the investment policy; ➤ Description of the policies surrounding the use of derivatives; and ➤ Market value and nominal exposure of each financial instrument with a nominal exposure greater than 5% of total assets listed by assets, liabilities, long and short positions, respectively.
Preparation for group-wide supervision	➤ Identification of the group-wide supervisor; ➤ Group solvency calculations; ➤ Inventory of material intra-group transactions; and

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	➤ Listing and activities of group legal entities by regulated, unregulated, EU, US, and other.
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Class 3B Insurers

<i>2009</i>	
<i>Categories</i>	<i>New Disclosures</i>
CSR	➤ BSCR and related schedules
Preparation for group-wide supervision	➤ Identification of the group-wide supervisor; ➤ Group solvency calculations; ➤ Inventory of material intra-group transactions; and ➤ Listing and activities of group legal entities by regulated, unregulated, EU, US, and other.

8.1.9.2 2010 Reporting Year

Class 4 Insurers

<i>2010</i>	
<i>Categories</i>	<i>New Disclosures</i>
Risk management	➤ Details of the probable maximum loss calculation; ➤ Material breaches of controls during the reporting period and resulting changes (if any) to prevent future breaches; ➤ Description of the reinsurance purchasing strategy; ➤ Narrative surrounding actual disaster plans put into place and any disaster mitigation and monitoring; ➤ Risk register analysis; ➤ Approach for managing and monitoring liquidity, general sources of liquidity, description of stress testing carried out to determine liquidity requirements, and contingent sources of liquidity in the event general sources prove to be inadequate; and ➤ Details of off-balance sheet financial instruments by type, key terms including aggregate exposure and characteristics.
Underwriting performance	➤ Reconciliation of beginning and ending loss reserve LOB balances; and ➤ Qualitative description of underwriting strategy.
Ad hoc disclosures	➤ Legal entity QIS.

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Class 3B Insurers

2010	
<i>Categories</i>	<i>New Disclosures</i>
CSR	➤ BSCR, including related schedules
Governance	➤ Board and executive management, including roles, work experience and board sub-committees (terms of reference of such sub-committees); and ➤ Intra-group exposures.
Risk management	➤ Description of the risk management process; ➤ Governance surrounding the risk management process; ➤ Process for setting and embedding risk limits; ➤ Identification of the types of stress testing carried out to ascertain the suitability of the risk appetite; ➤ Process undertaken to monitor material risk concentration; ➤ Details of the probable maximum loss calculation; ➤ Material breaches of controls during the reporting period and resulting changes (if any) to prevent future breaches; ➤ Description of the reinsurance purchasing strategy; ➤ Narrative surrounding actual disaster plans put into place and any disaster mitigation and monitoring; ➤ Risk register analysis; ➤ Approach for managing and monitoring liquidity, general sources of liquidity, description of stress testing carried out to determine liquidity requirements, and contingent liquidity sources in the event general liquidity sources prove to be inadequate; and ➤ Details of off-balance sheet financial instruments by type, key terms including aggregate exposure and characteristics.
Underwriting performance	➤ Reconciliation of beginning and ending loss reserve LOB balances; and ➤ Qualitative description of underwriting strategy.
Investments and derivatives	➤ Description of the process for calculating the effective duration for both investment assets and insurance obligations and key assumptions; ➤ Description of the investment policy; ➤ Description of the policies surrounding the use of derivatives; and ➤ Market value and nominal exposure of each financial instrument with a nominal exposure greater than 5% of total assets listed by assets, liabilities, long and short positions, respectively.
Ad hoc disclosures	➤ Legal entity QIS.

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8.1.9.3 2011 Reporting Year

Class 4 and Class 3B Insurers

<i>2011</i>	
<i>Categories</i>	<i>New Disclosures</i>
Ad hoc disclosures	➤ Group QIS.
Group-wide supervision	➤ Group statutory reporting includes: BSCR and related schedules, risk management and governance, underwriting performance, investments and derivatives, intra-group exposures, concentration risks, and quarterly unaudited management accounts.
ORSA	➤ ORSA related disclosures.
Economic balance sheet	➤ Economic balance sheet related disclosures.
Public disclosures	➤ Trial run with disclosures (intended for the public for the following year) filed with the Authority for review and feedback.

8.2 Phases 2 and 3

88. It is expected that the proposed requirements for Phases 2 and 3 would primarily surround public disclosures (although the Authority will review the sufficiency of its regulatory disclosures and propose enhancements accordingly). As noted in paragraph 24, apart from the audited general purpose financial statements, the Authority has sought to delay its selection of Phases 2 and 3 public disclosure requirements to allow an assessment of stakeholder needs and sufficient consideration of international developments. The Authority anticipates, however, that such disclosures will surround risk management and governance, and will likely resemble financial condition and solvency reports. Paragraph 34 will be used to guide the Authority's decisions in this regard. As noted in paragraph 26, the Authority will consult separately on these phases.

89. Generally, regulators use one of two public disclosure models: 1) require insurers to publish the prescribed public information themselves (i.e. on their respective websites) or 2) require insurers to submit the information to the regulator who in turn publishes it. The Authority proposes to adopt the second model, and publish information on its website.

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9. Proportionality and Waivers

90. The Authority will allow insurers to apply for (prior written) approval for modified filing and/or waivers under Sections 6C and 56 of the Act. The Authority appreciates that some exceptions may exist where detailed regulatory disclosures may be inappropriate for an insurer given its risk characteristics. Such cases could include insurers in run-off.

91. As indicated in paragraph 69, the Authority appreciates that information such as risk management and governance are often centralized, resulting in processes and procedures being implemented consistently at both the group and legal entity levels. In these instances, the Authority proposes to consider applications to largely waive *legal entity regulatory* disclosures in exchange for a single disclosure covering both the legal entity and group levels. Similarly, the Authority proposes to consider applications to accept non-Bermuda group disclosures as substitute for the Bermuda legal entity (subsidiary) disclosures provided the group is considered by the Authority to be from a jurisdiction that the Authority has assessed as having a broadly equivalent regulatory regime³⁴.

92. Further, the Authority proposes to introduce provisions to largely waive *legal entity public* disclosures and require only group disclosures in rare circumstances, which may include:

- where the associated group disclosures do not materially³⁵ differ from that which would be disclosed for the legal entity; or
- where legal entity disclosures, on account of financial accounting conventions, do not in the Authority's opinion appropriately reflect the economic characteristics of the Bermuda insurer. An example could arise in business combinations where statutory and general purpose accounting use different criteria to establish the acquirer, resulting in the

³⁴ BMA - "Discussion Paper on Implementing Group-wide Supervision", 31st March 2009, Pgs 15-16.

³⁵ Materiality may be assessed both quantitatively (e.g. the legal entity's assets comprise approximately 90% of the total consolidated assets of the group, etc.) and qualitatively (e.g. the risk characteristics of the legal entity resembles the group's so that key disclosures critical for a stakeholder legal entity risk-profile assessment could be discerned from group disclosures).

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economic characteristics of an insurer *appearing materially dissimilar* from its statutory position when reported on a general purpose accounting basis.

93. In the above cases, the waiver would generally apply to full legal entity disclosures; an insurer should expect that some aspects of its legal entity information (partial disclosures) would be required to be made public to give stakeholders a sense of the scale of the legal entity and maintain transparency.

94. The Authority will consider applications on a case by case basis. Notwithstanding, insurers should not fail in their obligations to develop systems, processes and/or measures that are in proportion to their risk profile.

10. Implementation Period

95. Implementation of the proposals will be effective for the reporting periods beginning 2009 (phased).

11. Aggregate Market Statistics

96. In addition to facilitating more in-depth insurer analysis, the proposed disclosures would put the Authority in a position to publish higher quality aggregate market statistics to inform both the market and other stakeholders. It would also allow the Authority to increase its contribution to supervisory literature presented in international forums, solidifying the Authority's position as a leading risk-based financial regulator.

12. Enforcement Initiative

97. The Authority is working on another work stream that, although not the focus of this paper, nevertheless relates to transparency and public disclosure. The initiative concerns the publication of certain enforcements against insurers (and/or their staff). The Authority currently has a wide range of supervisory tools to take action against insurers; however, such action is not

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currently made public. A discussion paper³⁶ was published in February 2009 to commence a dialogue for change, and a consultation paper is planned in the third quarter of 2009.

13. Conclusion

98. This paper outlines the proposed public and regulatory disclosure and transparency enhancements, particularly as they would be applied to Class 4 and 3B license holders. It is envisioned that the proposals would be adopted over three distinct phases, affording the Authority time to assess stakeholder information needs and consider the impact of international standards.

99. Phase 1 seeks to standardize disclosures surrounding risk management, governance, and other financial information (see Appendices A and B). These disclosures enhance the Authority's assessment of an insurer's solvency and liquidity positions, and ensure that threats to these positions are appropriately managed. The assessment assists the Authority in achieving its objective of protecting both existing and prospective policyholders in spite of increasing difficulty arising from more complex transactions and structural arrangements.

100. The Authority has not outlined detailed proposals for Phases 2 and 3 in this paper; however the Authority will be guided by principles outlined in paragraph 34 as future enhancements are considered. The Authority also plans to consult with Class 4 and 3B insurers prior to each implementation.

101. Some of the proposals in this paper will be cascaded to Class 3A insurers, but in a proportionate manner. The Authority will consult separately with this class prior to taking action.

³⁶ BMA - "Proposed Enhancements to Insurance Supervision and Enforcement Powers", February 2009.

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102. The Authority considers its captive regime to be appropriate and consistent with international regulatory standards. Accordingly, no changes are planned; however, the regime will be reviewed regularly to keep pace with evolving standards.

103. A number of projects discussed in the paper will impact the proposed information requirements over the next few years. The Authority will ensure that these initiatives are effectively integrated into the proposed disclosures framework to avoid duplication. In highlighting them, the Authority wishes to both prepare the market for changes to the regime and encourage market participation and feedback while the policies are being developed.

Appendix A
Class 4 insurers – Phase 1 Proposed Disclosures

- Prescribed format
- ✕ Trial run
- ✓ Proposed adoption

			Regulatory *			
	Sub-Category	Description	2009	2010	2011	FINAL
I	Governance	a) Board and executive management, including roles, work experience and board sub-committees (terms of reference of such sub-committees); and	✓			✓
		b) Intra-group exposures.	✓			✓
II	Risk management	a) Description of the risk management process;	✓			✓
		b) Governance surrounding the risk management process;	✓			✓
		c) Process for setting and embedding risk limits;	✓			✓
		d) Identification of the types of stress testing carried out to ascertain the suitability of the risk appetite;	✓			✓
		e) Process undertaken to monitor material risk concentration;	✓			✓
		f) Details of the probable maximum loss calculation;		✓		✓
		g) Material breaches of controls during the reporting period and resulting changes (if any) to prevent future breaches;		✓		✓
		h) Description of the reinsurance purchasing strategy;		✓		✓
		i) Narrative surrounding actual disaster plans put into place and any disaster mitigation and monitoring;		✓		✓
		j) Risk register analysis;		✓		✓
		k) Approach for managing and monitoring liquidity, general sources of liquidity, description of stress testing carried out to determine liquidity requirements, and contingent sources of liquidity in the event that general sources prove to be inadequate; and		✓		✓
		l) Details of off-balance sheet financial instruments by type, key terms including aggregate exposure and characteristics.		✓		

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III	Underwriting performance	a) Reconciliation of beginning and ending loss reserve LOB balances; and		• ✓		• ✓
		b) Qualitative description of underwriting strategy.		✓		✓
IV	Investments and derivatives	a) Description of the process for calculating the effective duration for both investment assets and insurance obligations and key assumptions;	✓			✓
		b) Description of the investment policy;	✓			✓
		c) Description of the policies surrounding the use of derivatives; and	✓			✓
		d) Market value and nominal exposure of each financial instrument with a nominal exposure greater than 5% of total assets listed by assets, liabilities, long and short positions, respectively.	• ✓			• ✓
V	Preparation for group-wide supervision	a) Identification of the group-wide supervisor;	✓			✓
		b) Group solvency calculations;	✓			✓
		c) Inventory of material intra-group transactions; and	✓			✓
		d) Listing and activities of group legal entities by regulated, unregulated, EU, US, and other.	✓			✓
VI	Ad hoc disclosures	a) Legal entity and group QIS.		• ✓	• ✓	
VII	Public disclosures	a) Trial run with disclosures (intended for the public for the following year) filed with the Authority for review and feed back.			✗	✗
VIII	Group-wide supervision	a) Group statutory reporting includes: BSCR and related schedules, risk management and governance, underwriting performance, investments and derivatives, intra-group exposures, concentration risks, and quarterly unaudited management accounts.			✓	✓
IX	ORSA	a) Disclosures related to the ORSA.			✓	✓
X	Economic balance sheet	a) Disclosures related to the economic balance sheet.			✓	✓

* As noted in paragraph 45, the Authority will assess stakeholder needs and monitor international developments and make determination accordingly regarding the specific information to be included in the 2011 trial run of public disclosures.

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Appendix B

Class 3B insurers – Phase 1 Proposed Disclosures

- Prescribed format
- ✕ Trial run
- ✓ Proposed adoption

			Regulatory *			
	Sub-Category	Description	2009	2010	2011	FINAL
I	CSR	a) Trial run and implementation, including BSCR filings.	✕	✓		✓
II	Governance	a) Board and executive management, including roles, work experience and board sub-committees (terms of reference of such sub-committees); and		✓		✓
		b) Intra-group exposures.		✓		✓
III	Risk management	a) Description of the risk management process;		✓		✓
		b) Governance surrounding the risk management process;		✓		✓
		c) Process for setting and embedding risk limits;		✓		✓
		d) Identification of the types of stress testing carried out to ascertain the suitability of the risk appetite;		✓		✓
		e) Process undertaken to monitor material risk concentration;		✓		✓
		f) Details of the probable maximum loss calculation;		✓		✓
		g) Material breaches of controls during the reporting period and resulting changes (if any) to prevent future breaches;		✓		✓
		h) Description of the reinsurance purchasing strategy;		✓		✓
		i) Narrative surrounding actual disaster plans put into place and any disaster mitigation and monitoring;		✓		✓
		j) Risk register analysis;		✓		✓

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		k) Approach for managing and monitoring liquidity, general sources of liquidity, description of stress testing carried out to determine liquidity requirements, and contingent liquidity sources in the event that general sources prove to be inadequate; and		✓		✓
		l) Details of off-balance sheet financial instruments by type, key terms including aggregate exposure and characteristics.		✓		
IV	Underwriting performance	a) Reconciliation of beginning and ending loss reserve LOB balances; and		• ✓		• ✓
		b) Qualitative description of underwriting strategy.		✓		✓
V	Investments and derivatives	a) Description of the process for calculating the effective duration for both investment assets and insurance obligations and key assumptions;		✓		✓
		b) Description of the investment policy;		✓		✓
		c) Description of the policies surrounding the use of derivatives; and		✓		✓
		d) Market value and nominal exposure of each financial instrument with a nominal exposure greater than 5% of total assets listed by assets, liabilities, long and short positions, respectively.		• ✓		• ✓
VI	Preparation for group-wide supervision		✓			✓
		a) Identification of the group-wide supervisor;	✓			✓
		b) Group solvency calculations;	✓			✓
		c) Inventory of material intra-group transactions; and	✓			✓
		d) Listing and activities of group legal entities by regulated, unregulated, EU, US, and other.	✓			✓
VII	Adhoc disclosures	a) Legal entity and group QIS.		• ✓	• ✓	
VIII	Public disclosures	a) Trial run with disclosures (intended for the public for the following year) filed with the Authority for review and feed back.			✗	✗
IX	Group-wide supervision	a) Group statutory reporting includes: BSCR and related schedules, risk management and governance, underwriting performance, investments and derivatives, intra-group exposures, concentration risks, and quarterly unaudited management accounts.			✓	✓
X	ORSA	a) Disclosures related to the ORSA.			✓	✓
XI	Economic balance sheet	a) Disclosures related to the economic balance sheet.			✓	✓

* As noted in paragraph 45, the Authority will assess stakeholder needs and monitor international developments and make determination accordingly regarding the specific information to be included in the 2011 trial run of public disclosures.