



17th November 2008

Industry Feedback: Building Resources to Meet Advances in Global Insurance Supervision

On 12th September 2008, the Bermuda Monetary Authority (“BMA”) released a consultation paper entitled “Building Resources to Meet Advances in Global Insurance Supervision”. The focus of this consultation paper was to set out proposals for amendments to supervisory fees paid by the commercial insurance sector. These funds would be used to support further enhancements to the insurance supervisory regime as the BMA paves the way for effective mutual recognition with other international regulators. Views were sought generally on whether or not proposed amendments to the existing supervisory fee structure:

- reflect the variable costs of supervising different company types and sizes of insurers;
- cover in the aggregate those costs associated with building the foundational elements of the enhanced commercial sector supervisory regime, and costs of implementation, and;
- are competitive, when compared to supervisory fees charged by other financial centres with a global insurance market.

Firms primarily affected by these proposals will be the large insurers in the new class 3B. There have also been modest proposed increases in fees for class 3A and long-term insurers. Our proposals do not impact the captive sector, as it is our clear policy objective to leave the existing regulatory framework and fee structure for captives broadly unchanged.

The BMA received three submissions in response to the consultation paper. Two of the responses were made by representative bodies on behalf of their membership (the Bermuda Insurance Managers Association - BIMA has 47 member organizations which, in turn, represent more than 1200 Bermuda insurers, and the Association of Bermuda Insurers and Reinsurers - ABIR has 23 member companies). It has not been possible to summarise all of the responses according to the consultation questions (set out at the annex A) as the format of the majority of the responses did not follow the questions asked. Rather respondents detailed their comments either in connection with a specific area of focus or offered more general comments, observations and concerns.

Generally, there was widespread support for the BMA to have sufficient funding to support ongoing enhancements to the regulation and supervision of Bermuda’s commercial insurance

sector. Respondents highlighted their support for the work that has already been undertaken and the ongoing work that will be necessary to ensure that the BMA continues to supervise to an internationally compliant level and that Bermuda continues to be a premier jurisdiction for all financial services. Respondents generally agreed with the 2009 proposed fee increases for class 3A, class 3B and long-term insurers. However, all respondents voiced a word of caution about the timing and level of any future fee increases, in light of any further fallout experienced from the global financial crisis.

Other key concerns/issues highlighted by respondents are shown below:

1. A question was raised as to whether all sectors of Bermuda's commercial insurance market should be asked to fund increased supervisory costs associated with mutual recognition related initiatives.
2. It was suggested that other costs associated with having a company registered in Bermuda should be considered when proposals are put forward to increase fees associated with insurance supervision. This would ensure that all jurisdictional costs are appropriately analysed, and that Bermuda remains a competitive place for international business.
3. The class 3 sector raised some concern about the appropriateness of the class 3B supervisory framework, mirroring that imposed on class 4 insurers.
4. It was also felt by some respondents that companies writing US related risks will not have the same expectation in terms of the supervisory burden, as those insurers that will operate within the EU. Further, it was suggested that pure writers of US risks should not be required to fund supervisory enhancements that are geared to supporting an equivalency assessment under EU standards.
5. Both associations proposed a "fees for services" approach, where companies are charged transactional fees for supervision. One example put forward was to institute an onsite inspection fee.
6. The class 4 sector suggested that there should be full parity between the annual fees charged to class 4 and class 3B insurers.
7. One group of firms accepted the case for parity but asked for a delay beyond 2010 to achieve this. Another group opposed the principle of convergence of the fee structure and asked that no further increases be made in 2010.
8. The BMA should consider ways to give companies a rebate if fees generated in a given year exceed supervisory related expenses in that year.

In addressing the class 3 sector concerns one must first take into account the work undertaken to craft industry guidance to support the re-registration of class 3 insurers. The BMA, through the assistance of the representative bodies of the class 3 sector, was able to provide a substantial amount of certainty to affected stakeholders about which company types would require reclassification into the new class 3A and class 3B sub-classes. These guidance notes were released on 12th September 2008, and not only provided detail on the application process, but further clarity as to how the BMA would treat the various company types that currently are

licensed as class 3 insurers. A brief synopsis of what has been communicated through the guidance notes follows:

- Class 3 insurers will include:
 - All Captives writing more than 20% and less than 50% unrelated business.
 - All insurers writing business arising out of the operations of their owners and not qualifying for licensing as a class 2 insurer.
 - Rent-a-captives and S-A-C companies.
- Class 3A insurers will include:
 - All non-class 4 commercial insurers writing 50% or more unrelated business, totaling less than \$50 million in net premiums written.
 - Affiliated reinsurers where other unrelated business does not exceed \$50 million in net premiums written.
- Class 3B insurers will include:
 - All non-class 4 commercial insurers writing 50% or more unrelated business, totaling more than \$50 million in net premiums written.

Many of the initial concerns raised by the class 3 sector have been addressed through the introduction of the above-referenced guidance notes, but as was mentioned above there remained substantive concern about the timing of convergence of class 3B and class 4 supervisory fees.

The original fee proposal introduced an annual business fee for Class 3B and Class 4 insurers that would be set according to a sliding scale, reflecting that the cost of supervision may vary with the volume of gross premium written. This new structure was meant to align the scale of annual fees more directly to an insurer's size and company type, whilst retaining as much simplicity as possible. The existing disparity between class 3B and class 4 would become de minimus over the next 2 years, as a further assessment of class 3B fees was planned for 2009 to ensure parity between class 3B and class 4 constituents by 2010.

As a result of the feedback received through this consultation process the BMA has determined not to proceed with full convergence of the fee structure for class 3B and class 4 insurers at this juncture, and will commit to consulting on this matter again in 2010. The BMA has also removed from the proposal any increases in annual business fees for the class 4 sector. It clearly is not the intent of the BMA to place any undue burden on its licensees, but to ensure that the supervisory costs for licensees more closely reflect the relative supervisory risks posed by the different categories and sizes of entities. The BMA is committed to ensuring that Bermuda's financial markets remain competitive and that the costs of supervision are reasonable, and we will continue to ensure effective management and cost control so that market participants can be assured that the BMA is discharging its responsibilities as efficiently and effectively as possible.

In response to concerns about the associated costs of the significant work involved with the drive towards mutual recognition, it should be noted that the BMA firmly believes this to be an important priority for all Bermuda constituents. The costs associated with the proposed fee increases is considerably outweighed by the benefits of Bermuda receiving a favorable mutual

recognition assessment, in terms of reduced regulatory costs for firms, continuing market access and favorable counterparty and investor sentiment towards Bermuda-based firms.

The BMA also amended the draft of the fees proposal to include a provision for fee remittance in those instances where the payment of the annual fee in whole or in part would be detrimental to an insurer's business. This would allow for flexibility in those instances where a company enters run-off, and/or some other state of dormancy.

Other key amendments to the initial draft of proposals are shown below:

1. No proposed increases to annual business fees for class 4 insurers.
2. A new fee for mutual recognition initiatives will be assessed to the Class 4 sector in 2009 and 2010. This new fee would amount to \$40,000 per company per annum and will not exist beyond 2010.
3. Annual business fees for Class 3A and long-term insurers have been reduced from the original proposal to \$19,000.
4. Additional service fees have been introduced and/or amendments made to existing service fees in the following areas:

Service	Existing Fee	Proposed Fee
Applying for registration as-		
1. insurer	\$140.00	\$525.00
2. insurance manager, broker or agent	\$140.00	\$300.00
Re-registration as a different class of insurer	\$210.00	\$350.00
Applying for an extension to the statutory filing deadline	\$368.00	\$525.00
Applying for a reduction in statutory capital under section 31C	\$210.00	\$525.00
Applying under section 56:	\$210.00	\$350.00
1. for an exemption from filing a loss reserve specialist opinion		
2. for an alteration and/or clarification of statutory accounting provisions	\$210.00	\$525.00
3. modifying the minimum solvency margin calculation	\$210.00	\$350.00
4. modifying the content of the statutory financial return	\$210.00	\$350.00

Applying to have an admitted asset designated as a “relevant” for the purpose of calculating the liquidity ratio	\$210.00	\$525.00
Applying for other fixed capital approval	\$210.00	\$350.00
*Notifying the BMA of new or increased shareholder control under section 30D		\$210.00
*Applying to cancel registration under section 41(1)(a)		\$350.00
*Applying for approval of an insurer’s internal model under the provisions of section 6A		\$50,000.00

* - new form of application

The BMA is extremely appreciative to all respondents for their comments, and to Insurance Advisory Committee members, who assisted the BMA in formulating the initial policy and draft legislative amendments. All of the feedback was considered useful and assisted in shaping the final proposals of the BMA to support the building of sufficient resources to meet advances in global supervisory standards.

Annex A

CONSULTATION QUESTIONS

In responding to this consultation paper, respondents are asked to consider the following questions, in addition to any other comments they may wish to make. Comments must be received by the BMA by 10th October 2008.

Overall Approach

- Q.1 Do you agree that the objective of mutual recognition is a major jurisdictional priority?
- Q2 Do respondents broadly agree with the overall approach taken in framing the proposed new fees for Class 3B and Class 4 insurers – namely, a sliding scale system based on the guiding principles noted above?
- Q.3 If the answer to Q. 2 is ‘no’, which alternative approach(es) would respondents propose instead?
- Q.4 Are any of the guiding principles identified irrelevant, in the view of respondents, and/or are there any other principles that respondents believe should have been taken into account?

Specific parameters chosen

- Q.5 Do respondents broadly agree with the fee bands set for different Class 3B and Class 4 insurers?
- Q.6 If the answer to Q.4 is ‘no’, what alternatives would respondents propose, and what would be their rationale?
- Q.7 Are there any specific anomalies created by the fee structure proposed?
- Q.8 Do respondents have views on the proposals as they impact long-term insurers and Class 3A commercial insurers?

Practical implementation

- Q.9 Would the new system be reasonably straightforward to apply?
- Q.10 Are there any specific questions or difficulties that respondents wish to raise, in terms of understanding how to apply the new system in practice?

Other Issues

- Q.11 Are there any other issues – not covered above – that respondents wish to comment on?