BERMUDA MONETARY AUTHORITY

12th May 2016

NOTICE

Bermuda Monetary Authority Determination Of Appeals Amendment Act 2016

The Bermuda Monetary Authority (the Authority) has proposed to Government that it address unintended anomalies relating to appeals provisions which exist within various regulatory acts. Specifically, it is proposed that the "Bermuda Monetary Authority Determination of Appeals Amendment Act 2016" (the Bill) be introduced and that it amend the following regulatory acts (collectively the Acts):

- the Insurance Act 1978;
- the Banks and Deposit Companies Act 1999;
- the Trusts (Regulation of Trust Business) Act 2001;
- the Investment Business Act 2003;
- the Investment Funds Act 2006; and
- the Corporate Services Provider Act 2012.

A draft of the Bill is attached.

1. The purpose of the Bill is to make provision under the Acts to clarify that all rights of appeal, arising under the "Rights of Appeals" sections of each of the Acts, fall within scope of the question for determination of the relevant tribunal, being whether (for the reasons adduced by the applicant) the decision was unlawful or not justified by the evidence on which it was based. Under the current "Determination of Appeals" sections of the Acts, several of the rights of appeal that arise under the relevant "Rights of Appeals" sections were inadvertently omitted. Therefore it is proposed for the existing

express rights of appeal under each of the Acts to be deleted; the result of which is that a "general" reference will now be made to said provisions to ensure that all such rights arising are within scope of the question for determination by the tribunal under the "Determination of Appeal" provisions of the Acts.

2. In light of the proposed changes to the Acts, the Authority is reviewing the respective Appeal Tribunal Regulations associated with the Acts and may, in due course, propose to Government changes to these statutory instruments, notifying relevant stakeholders accordingly.

3. Comments on the amendments to be effected via the Bill should be sent by 3rd June 2016 to the Authority via policy@bma.bm or to Pamela Burrows at the Ministry of Finance via pburrows@gov.bm.

May 12, 2016 **A BILL**

entitled

BERMUDA MONETARY AUTHORITY DETERMINATION OF APPEALS AMENDMENT ACT 2016

ARRANGEMENT OF SECTIONS

WHEREAS it is expedient to amend the "Determination of appeals" provision under each of the Insurance Act 1978; the Banks and Deposit Companies Act 1999; the Trusts (Regulation of Trust Business) Act 2001; the Investment Business Act 2003, the Corporate Service Provider Act 2012 and the Investment Funds Act 2006 to clarify the scope of appeals to which such section applies.

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows —

Citation

1. This Act may be cited as the Bermuda Monetary Authority Determination of Appeals Amendment Act 2016.

PART I

INSURANCE ACT 1978 AMENDED

Interpretation

2. In this Part, the "principal Act" means the Insurance Act 1978.

Section 44C amended

3. Section 44C (2) of the principal Act is amended by deleting the words “sections 44A (1) and (2)” and substituting “section 44A”.

PART II

BANKS AND DEPOSIT COMPANIES ACT 1999 AMENDED

Interpretation

4. In this Part, the “principal Act” means the Banks and Deposit Companies Act 1999.

Section 32 amended

5. Section 32 (1) of the principal Act is amended by deleting the words “section 30 (1) and (2)” and substituting “section 30”

PART III

TRUSTS (REGULATION OF TRUST BUSINESS) ACT 2001 AMENDED

Interpretation

6. In this Part, the “principal Act” means the Trusts (Regulation of Trust Business) Act 2001.

Section 31 amended

7. Section 31 (1) of the principal Act is amended by deleting the words “section 29 (1) and (2)” and substituting “section 29”.

PART IV

INVESTMENT BUSINESS ACT 2003 AMENDED

Interpretation

8. In this Part, the “principal Act” means the Investment Business Act 2003.

Section 35 amended

9. Section 35 (2) of the principal Act is amended by deleting the words “sections 33 (1) and (2)” and substituting “section 33”.

PART V

INVESTMENT FUNDS ACT 2006 AMENDED

Interpretation

10. In this Part, the “principal Act” means the Investment Funds Act 2006.

Section 57 amended

11. Section 57 (2) of the principal Act is amended by deleting the words “sections 55 (1) and (3)” and substituting “section 55”.

PART VI

CORPORATE SERVICE PROVIDER ACT 2012 AMENDED

Interpretation

12. In this Part, the “principal Act” means the Corporate Service Provider Act 2012.

Section 38 amended

13. Section 38 (1) of the principal Act is amended by deleting the words “section 36 (1) and (2)” and substituting the words “section 36”.

EXPLANATORY MEMORANDUM

The purpose of this Bill is to make provision under the Insurance Act 1978; the Banks and Deposit Companies Act 1999; the Trusts (Regulation of Trust Business) Act 2001; the Investment Business Act 2003, Corporate Service Provider Act 2012 and the Investment Funds Act 2006 (the "Acts") to clarify that all rights of appeal arising under the "Rights of Appeals" sections of each of the Acts, fall within scope of the question for determination of the tribunal; which shall be whether:- (for the reasons adduced by the applicant), the decision was unlawful or not justified by the evidence on which it was based. Under the current "Determination of Appeals" sections of the Acts; several of the rights of appeal that arise under the relevant "Rights of Appeals" sections were inadvertently omitted. Therefore it is proposed for the existing express rights of appeal under each of the Acts to be deleted; the result of which is that a "general" reference will now be made to said provisions to ensure that all such rights arising are within scope of the question for determination by the tribunal under the "Determination of Appeal" provisions of the Acts.