BERMUDA MONETARY AUTHORITY

4th April 2014

Dear (Re)Insurers:

Re: Public Disclosures and other related matters

The Bermuda Monetary Authority ("the Authority") began developing its approach to a transparency and disclosure regime in 2009 when it published a Consultation Paper on the subject in June of that year[1]. This Paper was part of a suite of regulatory change initiatives designed to enhance Bermuda's insurance framework in line with international regulatory standards, while maintaining an infrastructure appropriate for the Bermuda market.

The Authority recognises the importance of stakeholder engagement in its policy development process. We would like to take this opportunity to thank the insurance industry and other interested persons for their participation and valuable feedback.

The Authority's approach to transparency and disclosures seeks to balance regulatory requirements with the appropriate level of public disclosures with a view to protecting policyholders. The Authority has promulgated two guiding principles on public disclosures:

a. Public disclosures, while taking into consideration the public's interest, should be reliable, clear, understandable, consistent, relevant and material, and for information that would not compromise competitive advantage and confidentiality; and

b. Disclosures should be developed and implemented in tandem with international standards and be proportional to size, business mix, complexity, and the risk profile of insurers.

[1] Consultation Paper on Disclosure and Transparency June 2009

I. SECTION 17A INSURANCE ACT 1978

Section 17A of the Insurance Act 1978 ("the Act") requires Class 3A, Class 3B, Class 4 and Class E insurers to prepare and submit additional GAAP financial statements, and the Authority, where appropriate, will publish these financial statements. The Authority, in its Consultation Paper, "A Solvency Framework for Long-Term Insurance"[2], advised that it will be extending this regime to Class C and Class D insurers. The Authority wishes to advise that Section 17A will be amended in 2016 to include these classes. Presently, the Authority has allowed exemptions under Section 17A for all Class 3A insurers, and will continue this practice until 2016.

The Authority plans to produce a Consultation Paper on the economic balance sheet framework in 2014. One of the proposals under the economic balance sheet framework will be that general purpose financial statements under GAAP and/or IFRS will serve as the basis for statutory accounting under Section 15 of the Insurance Act for the entire commercial insurance market. The Authority will be engaging the market in the coming months to review this issue comprehensively. The Authority proposes public disclosures for Class C, Class D and Class 3A insurers will not be enforced until the statutory basis of accounting has been changed. Accordingly, there would be requirement for only one audit (i.e. no need for an audit for the statutory financial statements and a separate one for the general purpose financial statements to be made public).

II. DISCLOSURES TO POLICYHOLDERS

The International Association of Insurance Supervisors ("IAIS") Insurance Core Principle ("ICP") 20 promotes the necessity of appropriate public disclosures by insurers. These disclosures are designed to support the regulator's mandate of ensuring insurers conduct their activities in a manner that would preserve the stability and sustainability of the industry; and policyholders and other market participants are protected by having the necessary information to make appropriate and informed decisions.

ICP 20 pertains to public disclosures where the supervisor should require insurers "to disclose relevant, comprehensive and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities, performance and financial information."[3] The ICP further goes on to state that public disclosures, while they should be meaningful to all stakeholders, do "support the

[2] Consultation Paper on A Solvency Framework for Long-Term Insurance, August 2010
[3] http://www.iaisweb.org/Insurance-Core-Principles-material-adopted-in-2011-795

supervisory process"[4] and should be presented according to "applicable generally accepted national and international standards and practices so as to aid comparisons between insurers."[5]

There are instances where the insurer may file the general purpose financial statements but would seek an exemption from publication. Unless exceptional circumstances apply, the Authority may approve the application for exemption on the condition that the respective insurer would still be required to provide its policyholders with access to its audited general purpose financial statements upon request.

Policyholders and other stakeholders, upon written application to the Authority, can request a certificate of compliance pertaining to the insurer. The certificate of compliance will indicate whether the insurer has complied with the requirements of the Act as well as with any conditions attached to its insurance licence. The Authority will assess the veracity of the application and may confer with the insurer or its principal representative before issuing this certificate.

III. DISCLOSURES PERTAINING TO MINIMUM MARGIN OF SOLVENCY AND ENHANCED CAPITAL REQUIREMENT

The Authority published its Consultation Paper "Enhancements to the Regulatory and Supervisory Regime for Commercial Insurers" in January 2012, where it proposed that commercial insurers publicly disclose their compliance with or material breach of the minimum margin of solvency ("MSM") and enhanced capital requirement ("ECR"). In its response to stakeholders dated 1st June 2012, the Authority was amenable to insurers disclosing in the notes of the company's annual financial statements that it was in compliance with the MSM and ECR during the reporting period. Modified filers may make similar attestation.

The Authority will address publicising breaches of the MSM or ECR through the use of its enforcement powers as outlined in the "Statement of Principles on the Use of Enforcement Powers". The Authority will not automatically publish the names of companies in breach of the MSM or ECR but will consider whether publicising is appropriate on a case-by-case basis through its enforcement process. The Authority's interest with respect to publication is to balance appropriately the need for policyholders and counterparties to be aware of serious capital shortfalls in a company with the interest in not unduly provoking negative market reaction.

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[4] Ibid
[5] Ibid

The Authority wishes to take this opportunity to reiterate this position for the commercial insurers[6] and will consider exercising its power to publicise breaches of the MSM or ECR on a case-by-case basis. The Authority issued a Statement of Principles on the Use of Enforcement Powers[7] in 2012 which will guide the Authority in its decision on the matter.

Yours sincerely

The Bermuda Monetary Authority

[6] Class 3A, Class 3B, Class 4, Class C, Class D, Class E insurers

[7] http://www.bma.bm/document-centre/policy-and-guidance/INSURANCE%20II/Statement%20of%20Principles%20on%20the%20Use%20of%20Enforcement%20Powers.pdf