4th April, 2014

NOTICE

Information Bulletin

Waivers and Modifications to Section 17A of the Insurance Act 1978

1. The Bermuda Monetary Authority's ("the Authority") Information Bulletin on "Waivers and Modifications to Section 17A of the Insurance Act 1978" ("the Act") is intended to provide clarity and greater transparency regarding the Authority's exercise of Section 56 of the Act as it relates to producing and publishing additional financial statements as required under Section 17A of the Act.

2. The Authority recognises that there are circumstances that may require us to consider modifying the requirements of Section 17A for a particular insurer and would exercise Section 56 once the situation merits such a consideration.

3. The Information Bulletin seeks to provide instances where the Authority would consider such modifications or waivers but they should not be construed as exhaustive or as an automatic approval. The Authority will consider each situation on a case-by-case basis and be guided accordingly.

BERMUDA MONETARY AUTHORITY

INFORMATION BULLETIN

WAIVERS AND MODIFICATIONS TO SECTION 17A OF THE INSURANCE ACT 1978

MARCH 2014

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I. INTRODUCTION

1. The IAIS Insurance Core Principle ("ICP") 20 promotes the necessity of appropriate public disclosures to support the regulator's mandate for ensuring that insurance participants are conducting their activities in a manner that would preserve the stability and sustainability of the insurance industry; and that policyholders and other market participants are protected by having the necessary information to make appropriate and informed decisions. The Authority's approach to its disclosures and transparency regime seeks to create a bespoke framework that is aligned with international regulatory best practices.

2. The Authority has engaged the insurance industry and other interested stakeholders on its enhanced disclosures and transparency regime in a number of papers since releasing its first consultation paper on the subject in June 2009[1]. Since then the Authority has issued a number of policy papers[2] relating to transparency and disclosures. These papers formed part of a series of initiatives designed to enhance the insurance regulatory framework to be both aligned with international standards and appropriate for the Bermuda market.

3. Section 17A of the Act is intended to support the Authority's disclosures regime with the requirement to produce and publish additional financial statements prepared in accordance with certain accounting standards. These standards include International Financial Reporting Standards ("IFRS"), generally accepted accounting principles ("GAAP") applicable in Bermuda, Canada, U.K. or U.S.A., or other GAAP that the Authority may recognise. Further, Section 17A(6) allows the Authority to consider publishing these additional financial statements in any manner that it deems appropriate.

4. The Authority recognises that there are situations where insurers may not be able to comply fully with Section 17A or certain provisions contained within the section, and would seek relief through application under Section 56 of the Act. The Authority would consider such applications on a case-by-case basis and would review the circumstances of the proposal including the potential implications for policyholders and the market as a whole.

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[1] Consultation Paper on Disclosure and Transparency June 2009
[2] Consultation Paper on Disclosure and Transparency June 2009
Consultation Paper on Disclosures and Transparency June 2010 Update
Consultation Paper on A Solvency Framework for Long-Term Insurance, August 2010
Consultation Paper on Enhancements to the Regulatory and Supervisory Regime for Commercial Insurers, January 2012

5. This information bulletin is intended to provide clarity and greater transparency regarding the Authority's exercise of Section 56 of the Act as it relates to producing and publishing additional financial statements, as required under the Act. Although this bulletin seeks to provide examples where the Authority would consider such modifications or waivers, these conditions should not be construed as exhaustive or an automatic approval.

II. WAIVERS AND MODIFICATIONS TO SECTION 17A

6. The following situations are examples which may necessitate exemptions, and/or modifications to Section 17A. As previously noted these instances do not necessarily guarantee that exceptions would be granted as the Authority reserves the right to consider each case on its own merit.

7. The Authority would consider waivers or modifications to Section 17A under the following scenarios:
   a. Where the insurer is part of a group and the Authority is the group-wide supervisor, the Authority may waive legal entity disclosures and require group disclosures where:
      i. the associated group disclosures do not materially[3] differ from that which would be disclosed for the Bermuda-licensed insurer; or
      ii. the insurer's disclosures, due to financial accounting conventions, do not in the Authority's opinion appropriately reflect the economic characteristics of the insurer. An example could arise in business combinations where statutory and general purpose accounting use different criteria to establish the acquirer, resulting in the economic characteristics of an insurer appearing materially dissimilar from its statutory position when reported on a general purpose accounting basis.

   b. Where the insurer has not commenced its business operations, a waiver may be granted upon confirmation from the insurer:
      i. that it is in compliance with the Insurance Act,
      ii. that it has not written any business during the pertinent financial year, and
      iii. the expected date the insurer will commence operations.

[3] 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).

c. Where the insurer is dormant (does not have any insurance risk), in liquidation or provisional liquidation.

d. Where the insurer is in run-off and:
    i. it is not expected that public disclosures are necessary;
    ii. public disclosures may prejudice the insurer's commercial position;
    iii. the cost of producing the additional audited GAAP financial statements may have a significant impact on the insurer's ability to meet its policyholders' obligations.

e. Where the parent or ultimate parent of the Bermuda-licensed insurer is subject to a court appointed administration, receivership or liquidation process.

f. Where the Authority is satisfied that the publication of such financial statements may create a competitive disadvantage. The Authority would request a release letter from the insurer in the event a policyholder or stakeholder submits a request for a copy of these financials.

g. Where the insurer is writing 100% affiliated insurance business.

h. Where insurers may already have approved modified filing requirements such as branch operations which would submit its parent company's audited financial statements.

i. Where the insurer submits other financial information in lieu of the stipulations of Section 17A, such as filings with a reputable securities exchange or another supervisor that the Authority deems to have comparable disclosures.

8. The Authority would issue directions where the relevant requirements are waived or modified.

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