

REGULATORY UPDATE

October – December 2020



Preface

This Regulatory Update reports on activities at the Bermuda Monetary Authority (Authority or BMA) for the quarter ended Q4-2020*.

If you wish to receive an e-mail when the next edition is available, you may sign up to our subscription service by clicking the E-Alerts button on the homepage of the Authority's website.

**Published February 2021*

REGULATORY

Regime Created for Incorporated Segregated Accounts Company (ISAC) Insurance and Hybrid Structures

In December, the Authority posted Guidance Notes on the regulatory framework for ISAC (Insurance and Hybrid) structures. Insurance-licensed ISAC structures can include separate Incorporated Segregated Accounts (ISA) licensed to write insurance business, investment fund business or Digital Asset Business (DAB) within the same ISAC structure. For example, an ISAC could provide a platform for the Insurance-Linked Securities (ILS) market to have an ISA writing insurance business, and an ISA conducting investment fund business, within the same hybrid ISAC structure. An ISA registered/authorised to conduct investment fund business will have an opportunity to raise money from third-party investors through the offer of shares or other securities, and the funds raised can be used to collateralize (re)insurance written by an ISA conducting insurance business, all from within the same ISAC structure. *(Further details are provided in the Legislative Section below.)*

Consultation Paper Issued for Proposed Business Conduct Regime

As a responsible financial regulator, the Authority deems it essential to develop comprehensive oversight of financial services firms' conduct to secure an adequate degree of protection for their customers. Following a discussion paper published in August on the same topic, the BMA issued a consultation paper in December, relating to a proposed conduct of business regime. Some of the high-level principals proposed in the consultation paper to achieve this goal included that firms must ensure:

- Fair and equitable treatment of customers
- Continuing regard for the interests of customers in the conduct of its business
- Communications with customers are fair, clear and not misleading
- The protection of customers' assets against loss, fraud and misuse

- Complaints and errors are handled in a manner that is fair and expedient
- When dealing with retail customers, that individuals are aware of their responsibilities within the business relationship and have access to appropriate financial educational resources

Comments about the proposals contained in the consultation paper should be sent to conduct@bma.bm, no later than 15 February 2021.

Internationally Active Insurance Group (IAIG) Concept Proposed for Bermuda

In December, as part of its review to update Bermuda's commercial insurance regime, the BMA proposed the introduction of an IAIG concept, per the International Association of Insurance Supervisors' (IAIS) Common Framework (ComFrame). IAIGs will be subject to additional regulatory requirements and disclosures that will be transposed to the regulatory framework in due course. The Authority will also need to amend the Insurance Act 1978 to ensure insurance groups comply with specific standards when they meet minimum criteria as an IAIG. These amendments will be subject to public consultation.

BMA Releases Inaugural Catastrophe Risk and Stress Testing Analysis 2019 Report

In December, the BMA released its first 'Bermuda Insurance Property and Casualty Market – Catastrophe Risk and Stress Testing Analysis 2019 Report'. The report gives a high-level overview of the Catastrophe (Cat) risk exposure and stress testing analysis in Bermuda. Given the Bermuda market's relatively high concentration of Cat risk, having a broad understanding of this exposure is key to the BMA and other stakeholders worldwide. The BMA also utilised its 2019 filing data to produce: the 'Catastrophe Risk Modelling 2019 Report'; the 'Macroprudential Risk: Annual Statutory Filings Report'; and 'Bermuda's Coordinated Portfolio Investment Survey (CPIS) 2019 Report'. All of the above reports are available on the [BMA Reports and Surveys](#) page of the BMA website.

Resilience and Innovation Virtual Panels Posted

In December, a virtual panel entitled: “2020 – A Year of Resilience and Innovation at the BMA” was released. Gerald Gakundi, Director, Supervision (Insurance) introduced the moderator, Moad Fahmi, Senior Advisor, Supervision (Financial Technology) and panellists:

- Mellisa Burgess, Deputy Director, Licensing and Authorisations
- George Alayon, Assistant Director, Supervision (Insurance)
- Aqsa Zubair, FinTech Specialist

They discussed several insurance and FinTech-related topics, from the impact of the pandemic to innovation in Bermuda’s financial services sector.

The second virtual webinar, “*The ILS Evolution – A Regulatory Perspective on Innovation in the Reinsurance Market*” was moderated by industry veteran, Aditya Dutt and Gerald Gakundi introduced panellists:

- Martin Maringi, Deputy Director, Supervision (Insurance)
- Taijaun Talbot, Principal, Supervision (Insurance)

They highlighted some of the BMA’s 2021 ILS initiatives, including a focus on use of ISACs, Environmental, Social and Governance (ESG) matters, and an ILS framework for life/long-term business. You can view both virtual panels on the [Webinars, Virtual Panels and Podcasts](#) page on the BMA website.

Reporting Forms Updated for Banking, Trusts, Corporate Services and Investment (BTCSI)

A suite of documents relating to the submission of applications/business plans for Corporate Service Provider (CSP), Trust, and Fund Administration Provider Business (FAPB) licences, was uploaded to the BMA website. In addition, a new Statement of Principles and Code of Practice was published for FAPBs, while a new Statement of Compliance was made available for FAPB companies.

Updated Institutional Questionnaires and Personal Questionnaires for these sectors (as well as Banks, Investment Businesses and Money Service Businesses) were also uploaded.

Operational Cyber Risk Management Code of Conduct

Following industry consultation, the Authority published its Insurance Sector Operational Cyber Risk Management Code of Conduct in October. The Code established duties, requirements, standards, procedures and principles to comply with in relation to operational cyber risk management. The Code is designed to promote the stable and secure management of regulated entities’ information technology systems. It is deliberately not exhaustive – registrants must implement their own technology risk programmes, determine their top risks and decide the appropriate risk response. Failure to comply with provisions set out in the Code will be a factor taken into account by the Authority in determining whether a registrant meets its obligation to conduct its business in a sound and prudent manner. The Code comes into force on 1 January 2021 – the enforcement date is 31 December 2021.

LEGISLATIVE

Amendments Made to Digital Asset Business, Insurance and Investment Funds Legislation

The following Acts became operable in Q4-2020:

- Bermuda Monetary Authority Amendment (No. 2) Act 2020
- Digital Asset Business Amendment Act 2020
- Insurance Amendment (No. 2) Act 2020
- Investment Funds Amendment Bill 2020

Bermuda Monetary Authority Amendment (No. 2) Act 2020

The Act was amended to clarify the payment of certain fees under the Digital Asset Business Act 2018 and Insurance Act

1978. The following headings were amended in the Fourth Schedule:

- **Digital Asset Business Act 2018:** was amended as a housekeeping measure, to repeal and replace the fee table in its entirety so that fees are easier to interpret
- **Insurance Act 1978:** Amendments were made to: (i) correct the fee payable under paragraph 2(r) as \$1,000 instead of \$10,000 and (ii) to make provision for revised registration fees for Class 1, 2 and 3 insurers, Class 3A insurers, Class 3A affiliate insurers and Class 3A insurers carrying on run-off general business (under the relevant subparagraphs of paragraphs 3).

The Act became operable on 31 December 2020.

Digital Asset Business Amendment Act 2020

The Digital Asset Business Act 2018 was amended to introduce a new T (test) class of licence; refine the definitions of digital asset exchange, digital asset derivative exchange and digital asset services vendor; and to revise the power of the Authority to exempt any undertaking from the payment of any fee imposed under the Bermuda Monetary Authority Act 1969, or to reduce such fees. The Act became operable on 11 December 2020.

Insurance Amendment (No. 2) Act 2020

Section 1 was amended to insert definitions of the terms ISA and ISAC, while section 3 introduced a new subsection (1A), to provide that where an ISAC has established one or more ISAs that intend to carry on insurance business, then the ISAC shall also be deemed as intending to carry on insurance business. Such an ISAC is required to be registered under the principal Act. Provision was further made to amend section 5 to insert a new subsection (4) to provide for the matters to be considered by the Authority in determining the appropriate class of registration of an ISAC. The Act became operable on 11 December 2020.

Investment Funds Amendment Bill 2020

The Act was amended in several sections relating to annual filing requirements and filing dates. The “Interpretations” section was also amended to provide for a definition of “company fund” to include an ISA and an ISAC. The Bill was passed 13 January 2021 by the Senate.

INTERNATIONAL AFFAIRS

During the quarter, the BMA's Chief Actuary, Ricardo Garcia, was appointed Vice-Chair of the IAIS Policy Development Committee (PDC), succeeding BMA Deputy Chief Executive Officer, Craig Swan, in this role. Additionally, BMA Director, Marcelo Ramella, has been reappointed to serve as Vice Chair to the Macprudential Committee (MPC). Bermuda also assumed the role of Deputy Chair of the Caribbean Financial Action Task Force (CFATF). Bermuda will then undertake the year-long role of Chair, commencing at the November 2021 Plenary, which will be hosted in Bermuda.

IAIS

The BMA continued its involvement with the IAIS Executive Committee and PDC during Q4-2020. The Authority also participated in the Macprudential Monitoring and Macprudential Supervision Working groups. Group activities revolved around the following topics: the Application Paper on Insurance Core Principle (ICP) 24 (macroprudential supervision), which the Authority has played an active role in drafting; and data calls for various topics. Activities also included reporting information on the COVID-19 data-gathering exercise on the global insurance market to the Financial Stability Board (FSB) and finalising the liquidity metric. Also, the Authority contributed to the Financial Crime Task Force (FCTF) review of the Application Paper for ICP 22 (Anti-Money Laundering and Combating the Financing of Terrorism) (AML/CFT).

In October, the BMA participated in the drafting of the IAIS Global Insurance Market Report 2021 and a special meeting of the Coordination Group. Authority representatives also contributed to the MPC, Holistic Framework Implementation Assessment (HFIA) work stream and Implementation Assessment Committee. Also noted was the BMA's involvement with drafting in the Resolution Working Group throughout this period. IAIS engagements for December included the virtual IAIS Annual Conference and the HFIA Targeted Jurisdictional Assessment (TJA) kick-off meeting and TJA Core Team membership.

European Insurance and Occupational Pensions Authority (EIOPA)

The BMA attended the virtual Sustainable Finance Roundtable hosted by EIOPA in December. This session provided an overview of EIOPA's initiatives on integrating environmental, social and governance risk assessment in the regulatory and supervisory framework for insurance and pensions.

National Association of Insurance Commissioners (NAIC)

The NAIC virtual fall meeting was also held in December and attended by the BMA. Sessions of interest included climate resilience, innovation and technology, and international relations.

Other Fora

Virtual involvement in other international fora began in October with panel participation in the Institute of International Finance (IIF) webinar, "*IIF Future of Insurance Webinar Series – Part 1*", on the Strategic Planning in a Volatile Market Environment Panel.

The BMA continued its involvement with the Group of International Insurance Centre Supervisors and invited members to an internal, virtual training session on climate risk. In addition, the BMA spearheaded and circulated the Caribbean and Offshore Region Members' IAIS 2020-2021 Roadmap Survey and provided regular updates on IAIS developments, including publication of new consultations. Members of the Caribbean Association of Insurance Regulators were invited to BMA training sessions on International Financial Reporting Standard 17 and cybersecurity concepts.

Additionally, the BMA was active in the Sustainable Insurance Forum. The December virtual meeting included member updates on activities and commencement of the 2021-2023 work-streams. The BMA is actively contributing to the 'climate risk in actuarial processes' work-stream, along with eight other jurisdictions.

The BMA was represented on a panel discussing supervisory cooperation recognition at the Organisation for Economic Co-operation and Development (OECD) 2020 Symposium on

Reinsurance Risk and Opportunity in Asia. The Authority also participated in the OECD Insurance and Private Pensions Committee Plenary meeting and the Bermuda Financial Policy Council (FPC), as FPC Secretariat, in December. In November, the Authority attended the Global Legal Entity Identifier System Forum as an observer.

The BMA was present at the virtual meeting of the Financial Action Task Force (FATF) Policy Development Group in October. This involvement reflects Bermuda's ongoing participation in the project team which is reviewing R24 (transparency of beneficial ownership). The Authority also participated in sub-committee and Plenary meetings of the CFATF, which ran from late November to early December.

Throughout the quarter, the BMA was involved with the FSB Regional Consultative Group Americas' (RCGA) Non-Bank Financial Intermediation Working Group, in the capacity of Co-Chair. The December Plenary meeting for the FSB RCGA was also virtually attended by the Authority.


BTCSI

In terms of participation in the International Organisation of Securities Commissions, the BMA attended virtual meetings in October and November. The October session focused on the use of personal data and mechanisms pertaining to its management. The November session highlighted the impact of COVID-19 on capital markets and other priority issues facing securities market regulators and supervisors today.

The BMA virtually attended the Group of International Finance Centre Supervisors' (GIFCS) Plenary Meeting in October. The following three areas were discussed:

- GIFCS contributions to the FATF strategic review
- Update on members' regulatory responses to the pandemic and management of industry challenges
- A review of most recent jurisdiction Trust and Corporate Service Provider (TCSP) evaluation, and plan for future evaluations

As a member of GIFCS, the Authority is subjected to a technical compliance and effectiveness review of the implementation of the prescribed regulatory standards governing TCSPs in Bermuda. In this regard, the Authority has been working on its various submissions to GIFCS throughout 2020. This evaluation commenced in a virtual



‘on-site’ assessment in early December. Internal and external stakeholders participated in the assessment. The assessment process continues through to April 2021, at which point a final report will be published on the GIFCS website.

The BMA also attended the 21st International Conference of Banking Supervisors held in October. This virtual meeting was jointly hosted by the Basel Committee on Banking Supervision, the Canadian Office of the Superintendent of Financial Institutions and the Bank of Canada. Discussions for this meeting focused on:

- Challenges facing banking supervision in 2020
- Adapting supervision to challenges, which highlighted the evolving use technology and lending practices in light of COVID-19
- The future of supervision



BMA House

43 Victoria Street, Hamilton HM 12, Bermuda
P.O. Box 2447, Hamilton HM JX, Bermuda

Tel: (441) 295 5278 Fax: (441) 292 7471

Email: enquiries@bma.bm

www.bma.bm

