



25 February 2021

Dear Stakeholders,

Re: CONSULTATION PAPER - INTRODUCTION OF THE CONCEPT OF INTERNATIONALLY ACTIVE INSURANCE GROUP PROPOSAL – DECEMBER 2020

I. Introduction

On 21 December 2020, the Bermuda Monetary Authority (Authority or BMA) issued a consultation paper as part of its review to update and revise Bermuda's insurance supervisory framework to meet the principles and standards of the International Association of Insurance Supervisors' (IAIS) Common Framework (ComFrame) for the supervision of Internationally Active Insurance Groups (IAIG), to introduce the concept of an IAIG.

The Authority would like to thank stakeholders for their continued support of its key initiatives. The Authority further appreciates all feedback received and is committed to working closely with its stakeholders to ensure that Bermuda's regulatory regime is effective and aligned with international standards.

Please note below a summary of the salient comments received from various stakeholders during the consultation exercise and the Authority's response and resulting actions.

II. Substantive Comments and Authority's Response

Stakeholders were generally supportive of the proposed changes and approach. The substantive comments from stakeholders are set out below, primarily requesting modifications or clarifications to the consultation paper's proposals. In this regard, please also note the Authority's response and resulting actions for such comments.

Comment: scope of the proposed changes

A stakeholder noted that the proposed amendments are aimed at insurance groups whose group supervisor is the Authority. There are no references made to IAIGs designated by other authorities but who operate in Bermuda. While the stakeholder does not believe this proposal has implications for these internationally designated IAIGs, the stakeholder seeks confirmation on this point.

Authority response and resulting action

The Authority confirms that the stakeholder's understanding regarding the intended scope of the proposal is correct.

Comment: IAIG definition

Certain stakeholders commented that in the consultation paper’s proposed amendment to section 27A of the Insurance Act 1978 (Act). One of the definitional criteria for an IAIG is that the insurance group “writes premium in three or more jurisdictions”. That language does not strictly mirror the language in ComFrame, defining that criteria as “premiums are written in three or more jurisdictions”. In order to remain consistent with ComFrame on the definition (and to avoid any potential uncertainty that the IAIG criteria under the Act differ from other jurisdictions adopting these criteria), these stakeholders recommended that the language be amended to mirror ComFrame’s definition.

Authority response and resulting action

It was not the Authority’s intention to depart from the spirit and substance of ComFrame’s definition of an IAIG, namely in terms of international presence criteria. Instead, the proposed provisions intended to adopt ComFrame’s principles in accordance with the legislative architecture of the Act and Bermuda’s regulatory laws in general. Therefore, to minimise any potential uncertainty or unintended consequences, the Authority proposes to amend the definition by revising “writes premium in three or more jurisdictions” to “premiums are written in three or more jurisdictions”.

Comment: right of appeal

Certain stakeholders encouraged the Authority to consider adding the right to appeal an adverse IAIG determination under the new section 27H to the list of appealable decisions in section 44A(1) of the Act. This would be in addition to the already proposed provision of the Authority to provide advanced notice to the insurance group of its intention to make an IAIG determination and to permit the insurance group to provide written representations for the Authority to take into account before issuing its determination.

Authority response and resulting action

PART VIIIA of the Act makes provision for appeals relating to the Act’s contraventions or any condition imposed on a registered person. In this connection, persons aggrieved by a “decision” taken by the Authority through the use of its formal powers may appeal to said decision. As an IAIG determination is not an “enforcement” matter at the designation stage, the Authority is of the view it would be inappropriate to include such matters under this part of the Act.

Please be advised that the intent of the Authority with respect to the process of designating an IAIG shall be similar to the process undertaken when determining whether it is appropriate for it to be designated as a group supervisor of an insurance group (i.e., where such decisions are not appealable under section 44A(1) of the Act).

The BMA notes that the aforementioned process provides sufficient opportunity for an insurance group’s views to be taken into consideration before a decision is made and, in addition, advises that to date, ComFrame has not introduced or sought to introduce, a dedicated appeal process for IAIG determination.



Comment: scope of additional regulatory requirements and disclosures to be transposed to the Bermuda framework in due course

A stakeholder queried the proposals in paragraph 5 of the consultation paper, which states, “IAIGs will be subject to additional regulatory requirements and disclosures that will have to be transposed into our framework in due course.” The stakeholder requested the Authority clarify if there will be any additional regulatory requirements or disclosures that apply to IAIGs not designated by the Authority but operating within Bermuda.

Authority response and resulting action

ComFrame primarily focuses on group supervision and group requirements on the “Head” of the IAIG, its group supervisor and supervisory college. The Authority, therefore, does not intend to go beyond the spirit and scope of ComFrame and the consultation paper mentions the need for additional provisions for “insurance groups”. However, in relation to IAIGs designated by the Authority, a comprehensive ComFrame implementation roadmap shall be shared with industry in due course. As mentioned in the consultation paper, additional provisions will be subject to public consultation.

The Authority would once again like to thank stakeholders for their participation in this consultation exercise. We remain committed to working with industry and other interested parties to ensure that the results achieved are in Bermuda’s market best interest.

Yours sincerely,

Bermuda Monetary Authority