

REGULATORY UPDATE

October – December 2021



Preface

This Regulatory Update reports on activities at the Bermuda Monetary Authority (Authority or BMA) for the quarter ended 31 December 2021*.

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REGULATORY

BMA Consults on Proposed Adoption of Final Basel III Reforms and Changes to Liquidity Coverage Ratio Outflow Treatments

In December 2021, the Authority issued the following four consultation papers related to the final Basel III standards issued by the Basel Committee on Banking Supervision:

- Proposed Revisions to the Large Exposure Framework for Banks
- Amendments to the standardised approach to measuring operational risk capital charges for banks
- Proposed Adoption of the Revised Operational Risk Principles for Banks
- Output Floor for Banks

Additionally, in December 2021, the Authority issued a further consultation paper entitled “Proposed Changes to Liquidity Coverage Ratio Outflow Rates for Specific Financial Counterparties”. This consultation results from the Authority’s periodic review of existing standards to ensure they remain appropriate for the local banking industry and the jurisdiction as a whole.

All five consultation papers have a commentary deadline of 31 March 2022.

BMA Consults on Cyber Risk Management Code of Conduct

In October 2021, the Authority published a consultation paper entitled “Cyber Risk Management Code of Conduct – Banks, Deposit Companies, Corporate Service Providers, Trust Companies, Money Service Businesses, Investment Businesses and Fund Administration Providers”. The consultation paper seeks to formalise the minimum requirements and expectations of licensed entities in the aforementioned categories regarding the management and reporting of cybersecurity risks and incidents.

BMA Consults on Proposed Enhancements to the Investment Business Regime

In September 2021, the Authority issued a consultation paper entitled “Proposed Enhancements to the Investment Business Regime: Regulations and Rules”. Its aim, among others, is to socialise the transposition of the existing Investment Business (Client Money) Regulations into rules.

Further to those proposed Investment Business (Client Money) Rules 2022, the Authority published an additional consultation paper in October 2021, which discusses the rules the Authority will seek to introduce in respect of:

- Net assets and additional capital
- Liquidity
- Statutory returns

BMA Responds to Stakeholder Feedback on the Insurance Code of Conduct

On 25 October 2021, the Authority issued a draft of the proposed revisions to the Insurance Code of Conduct (Code) relating to the conduct of business regime. The proposals sought to embed the previously consulted principles of good conduct of business into the Code. The principles also align with international best practices (i.e., standards set under the International Association of Insurance Supervisors (IAIS) Insurance Core Principles (ICP) 19 conduct of business).

On 7 December 2021, the BMA issued a response to the industry feedback on these proposed revisions.

BMA Publishes Proposed Amendments to Insurance Prudential Standards

On 16 December 2021, the Authority published proposed amendments to the Insurance (Prudential Standards) (Insurance Group Solvency Requirements) Amendment Rules 2022 effective 1 July 2022, which included:

- a. Introducing a new Schedule IVF “Schedule of Risk Exposure”; and
- b. Requiring insurance groups to additionally report on the following matters each quarter:
 - i. Enhanced capital requirement ratio;
 - ii. Group solvency self-assessment;
 - iii. Bonds by Bermuda Solvency Capital Requirement (BSCR) rating; and
 - iv. Details of catastrophe risk exposure.

On 16 December 2021, the Authority published proposed amendments to the Insurance (Prudential Standards) (Class C, Class D and Class E Solvency Requirement) Rules 2011, effective 1 July 2022, which proposed to:

- a. Include a new Schedule IV(F) “Schedule of Risk Exposure” to require Class D and E insurers to provide information and reporting to the Authority in relation to their underwriting activities based on the location of business being underwritten, and to make provision for a similar new Part IV(F) “Schedule of Risk Exposure” to be imposed on Class C insurers pursuant to Schedule XIII; and
- b. Introduce a requirement for all Class D and E insurers to submit quarterly financial returns not more than two months after their quarter-end.

On 16 December 2021, the Authority published proposed amendments to the Insurance (Prudential Standards) (Class 4 and 3B Solvency Requirements) Amendment Rules 2022, effective 1 July 2022, which proposed the following:

- a. For the introduction of a new Schedule IV(F) “Risk Exposure” that requires Class 4 and 3B insurers to provide information to the Authority relating to risk exposures in respect of the number of subsidiaries, gross premium written, gross losses incurred and reserve details during the financial period;

- b. To amend the quarterly reporting requirements to include:
 - i. Enhanced capital requirement ratio;
 - ii. Commercial insurers solvency self-assessment;
 - iii. Bonds by BSCR rating; and
 - iv. Details of catastrophe risk exposure during the quarter.

On 16 December 2021, the Authority published proposed amendments to the Insurance (Prudential Standards) (Class 3A Solvency Requirements) Amendment Rules 2022 to make provision for the introduction of a new Schedule IV(F) “Risk Exposure”. This requires Class 3A insurers to provide information to the Authority relating to risk exposures in respect of their subsidiaries, gross premium written, gross losses incurred and reserve details during the financial period. The Authority proposes that the amendments become effective as of 1 July 2022.

BMA Publishes Draft Revisions to Insurance Code of Conduct

On 22 December 2021, the Authority published a draft of the revisions to the Insurance Code of Conduct in alignment with international standards. The proposed amendments aim to improve and enhance the code and its application. Proposed substantive changes were made in the areas of corporate governance; reinsurance and other forms of risk transfer; sustainability risk; business continuity and disaster recovery plan; and outsourcing. The comment deadline was 31 January 2022, and the Authority will respond to industry feedback in due course.

Updates to Reporting Forms and Guidelines

The Authority published the following reporting forms and guidelines in Q4-2021:

- Discount rates for insurers for the period ended 30 September 2021 (6 October)
- The 2021 BSCR for Classes 4, 3A, 3B, C, D, E and Insurance Groups (6 December)

- The 2021 Year-End Stress and Scenario Instructions for Classes 4, 3A, 3B, C, D, E and Insurance Groups (6 December)
- The 2021 Year-End Long Term Instructions Handbook, General Business Handbook and Insurance Group Instructions Handbook (6 December)
- The 2021 Year-End Filing Requirements for Classes 4, 3A, 3B, C, D, E and Insurance Groups (7 December)
- The 2022 Insurance Managers Annual Return (17 December)
- The 2022 Agents - Brokers Annual Return (17 December)
- The 2021 Year-End Filing Requirements for Classes 1, 2, 3, A and B Insurers (17 December)
- The 2021 Year-End Limited Purpose Insurers Supporting Documents (17 December)
- Notice on the Update of the Schedule of Cyber Risk Management for Classes 1, 2, 3, A and B Insurers to be filed alongside the electronic statutory financial return (17 December)
- Schedule XXIII Interest Rate shocks for the 2021 year-end to be applied when using the shock-based approach to interest rate risk in BSCR (30 December)

BMA Releases 2020 Captive Report

On 4 November 2021, The BMA published the **2020 Captive Report**. The report reveals that the Bermuda captive market maintained strength and presence in 2019 with over \$25 billion in gross written premiums. A broad range of industries utilising captives continued to see Bermuda as the jurisdiction of choice. Captive structures remained relatively unchanged compared to the prior year, with a mix of 67% related business, 23% unrelated business and 10% connected business written, and where 17% of the captive market operates a segregated accounts structure. Overall, the Bermuda captive market is well positioned with strong balance sheets to pay in the event of claims.

Bermuda Insurance Property and Casualty Market Catastrophe Risk and Stress Test 2020 Report Published

On 7 December 2021, the BMA published the **Bermuda Insurance Property and Casualty Market Catastrophe Risk**

and Stress Test 2020 Report. The report provided an overview of the catastrophe risk exposure in Bermuda, which shows that the gross loss exposure assumed by Bermuda insurers increased by 7.5%, with 24% of the global share of gross estimated potential loss assumed by Bermuda insurers on the major catastrophe perils (combined), an increase of 3%.

Macroprudential Risk: 2020 Annual Statutory Filings Report Released

On 15 December 2021, the BMA published the **Macroprudential Risk: 2020 Annual Statutory Filings Report**. The report highlights that Bermuda's economic environment was impacted by the onset of COVID-19, which is still ongoing. The Bermuda market experienced increased mergers and acquisitions activity and new and de-registrations of Class 3B and 4 insurers. Nevertheless, Bermuda reinsurers saw net written premiums increase by 7.1%, combined ratios rose by 6.9% to 106.5% due to COVID-19 and an active hurricane season, and claims increased by 14.9%. Liquidity conditions did not improve with returns on investments at 4.7%, return on equity stood at 6.5% and return on assets stood at 2.5%.

BMA Releases Catastrophe Risk Modelling 2020 Report

On 15 December 2021, the BMA published the **Catastrophe Risk Modelling 2020 Report**. Compared to 2019, the 2020 report found that modelling practices seem to be in a steady-state, with variations in certain areas such as estimated loading factors. With respect to model usage, the Authority continues to observe that, mainly, two external vendors are used, AIR Worldwide and Risk Management Solutions. In addition, Bermuda insurers continue to develop in-house models in the event that external vendor models do not sufficiently cover specific risks/perils. Finally, the Authority observed variations in modelling practices between groups and legal entities, which are expected given that legal entities will tend to assume more niche risks than groups with specialised risk management needs.

Bermuda Insurance Sector Operational Cyber Risk Management 2021 Report Published

On 16 December 2021, the BMA published the *Bermuda Insurance Sector Operational Cyber Risk Management 2021 Report*. The report highlighted that the Authority is pleased with industry's continued focus on cyber risk. Upon examining the 2020 data, there are no new control deficiencies of such magnitude and risk added as a new key finding (compared to last year's report). Nevertheless, the data indicates that for some cyber risks, a lower than expected percentage of insurers indicate they have controls in place, including areas of third-party cyber risk management assessment, data classification, board approval of cyber risk strategy/policy and data loss prevention.

BMA Publishes Bermuda's Coordinated Portfolio Investment Survey 2020 Report

On 24 December 2021, the BMA published *Bermuda's Coordinated Portfolio Investment Survey 2020 Report*. The study is part of the International Monetary Fund's comprehensive international survey, which measures Bermuda's holdings of foreign currency. As of 31 December 2020, Bermuda's total assets increased by 20.2% (US\$238 billion) from the previous year, reaching US\$1.42 trillion. At the same time, Bermuda's foreign portfolio investment assets reached US\$848.7 billion, a significant increase of 17.3% (US\$124.9 billion) when compared to the value of holdings as of 31 December 2019. This increase was driven by new entities that the BMA licensed during the year within the insurance and investment fund sectors. Bermuda's foreign portfolio holdings made up approximately 59.8% of total Bermuda financial services assets, down from 61.5% in 2019.

Update to Anti-Money Laundering and Anti-Terrorist Financing Guidance Notes

Work continues to progress on finalising updates to the Guidance Notes for Anti-Money Laundering and Anti-Terrorist Financing (AML/ATF) for Regulated Financial Institutions on AML/ATF, and the respective sectoral guidance notes for the securities, corporate service provider, trust, digital asset business and money service business sectors. The Authority anticipates providing all of the updated guidance note documents to the Office of the National Anti-Money

Laundering Committee (NAMLC) to navigate required Government approvals by the end of January 2022. In addition, revised sectoral guidance notes for the long-term insurance sector and new guidance notes for the insurance manager sector will be issued for consultation in 2022.

LEGISLATIVE

Amendments to the Proceeds of Crime Act 1997 and Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008

The various legislative amendments to the Proceeds of Crime Act 1997 and Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 arising from the Caribbean Financial Action Task Force (CFATF) Mutual Evaluation Review continue to progress. The bill was finalised and tabled in Parliament on 10 December 2021 and passed on 23 February 2022.

BMA Consults on Amendments to the Digital Asset Business (DAB) Framework

On 29 November 2021, the Authority published a consultation paper on proposed amendments to the Digital Asset Business Act 2018 (DABA) along with enhancements to certain DAB rules to provide further clarity on certain sections and make other changes intended to facilitate more effective administration of DABA.

The proposed amendments included:

- Introduction of a new DAB activity and related definitions for digital asset lending and digital asset repurchase transactions
- Introduction of an exemption for certain entities licensed under the Investment Business Act 2003
- Change in approach to the exemptions procedure
- Clarification regarding administrative penalties
- Clarification regarding cyber return reporting requirement for Class M and Class T licence holders
- Enhancement of disclosure requirements for DAB entities pertaining to the type and nature of class they hold, including the activities they are allowed to carry out thereunder

INTERNATIONAL MEETINGS

Caribbean Financial Action Task Force (CFATF)

The BMA attended the fall CFATF Plenary, held virtually and with several sessions covering the working groups and main Plenary from 19 November through 3 December. Notably, Bermuda assumed the role of CFATF Chair for the ensuing year, which will be fulfilled by Ms. Cheryl-Ann Lister, Acting Financial Secretary. The plenary accepted a report titled “Vulnerabilities in the Concealment of Beneficial Ownership Information”, which was delivered by a working group led by the BMA.

International Organisation of Securities Commission (IOSCO)

The Authority attended IOSCO’s 46th Annual Meeting in November 2021, including the Growth and Emerging Markets Committee and the Inter-American Regional Committee meetings. The sessions covered several priority issues for securities market regulations and supervisors such as sustainable finance, market fragmentation, financial innovation and robo-advising.

Group of International Finance Centre Supervisors (GIFCS)

The Authority attended the GIFCS Plenary in November 2021. The GIFCS peer review report of Bermuda’s compliance with the GIFCS Standard on the Regulation of Trust and Company Service Providers was discussed and approved.

INTERNATIONAL AFFAIRS

Sustainable Insurance Forum (SIF)

The BMA maintained its involvement with the SIF by contributing to the preparation for the SIF Statement on the 2021 United Nations Climate Change Conference (i.e., COP26). It also assisted in the SIF’s launch preparation for the Climate Training Alliance.

International Association of Insurance Supervisors (IAIS)

The BMA is represented in almost all IAIS committees and sub-committees and actively participated in the work conducted by these during the fourth quarter.

During the fourth quarter, the IAIS Executive Committee (ExCo) approved the following items among others: the IAIS Risk Management Framework; the revised Application Paper on Supervisory Colleges; the revised Application Paper on Combating Money Laundering and Terrorist Financing; the Issues Paper on Insurer Culture; the launch of the Public Consultation on the Development of Liquidity Metrics – Phase 2; the publication of the Global Insurance Market Report (GIMAR) 2021; the publication of an IAIS statement on the importance of diversity, equity and inclusion considerations in insurance supervision; and the 2022 GIMAR special topic on cyber risk, including cyber underwriting. Additionally, the IAIS ExCo discussed a revised timeline for finalising and issuing the public consultation on draft criteria by which to assess whether the aggregation method provides comparable outcomes to the Insurance Capital Standard (ICS), and discussed the IAIS 2022-2023 Roadmap.

The BMA’s Chief Actuary was successfully appointed to the ExCo at the November Annual General Meeting, replacing the BMA’s Chief Executive Officer in this role as representative of the Centre of Offshore Jurisdictions through the seat assigned to the Group of International Insurance Centre Supervisors.

The Policy Development Committee (PDC), Macroprudential Committee (MPC) and Implementation and Assessment Committee (IAC) provided input on the matters referenced above ahead of the ExCo meeting and received a myriad of updates on projects under their respective domains. The BMA continued to actively participate in all four mentioned committees, namely as Co-Vice Chair of MPC and PDC.

The BMA also continued its active participation on a wide number of sub-committees, assuming several leadership roles, namely working on the Common Framework for Supervision of Internationally Active Insurance Groups, Holistic Framework (HF), Insurance Core Principles (ICP) and other supervisory material work, including:

- Co-chairing the team, overseeing the Targeted Jurisdiction Assessment, which focuses on the implementation of the HF

- Joining the Operational Resilience Taskforce
- Participating as a member of the newly created Climate Risk Steering Group and actively partaking in the (i) gap analysis on the ICPs and (ii) scenario analysis development
- Heavy involvement in the drafting of the IAIS 2021 GIMAR Special Edition Topic “The Impact of Climate Change on the Financial Stability of the Insurance Sector

Organisation for Economic Co-operation and Development (OECD)

At the OECD, in Q4, a BMA representative delivered a seminar on ICP13 “Reinsurance and Other Forms of Risk Transfer” at the virtual OECD Workshop entitled “Enhancing the Role of Insurance in Providing Financial Protection.” Additionally, in December, the BMA was represented at the OECD’s Insurance and Private Pensions Committee meeting.

Financial Stability Board (FSB)

The BMA was represented at the FSB’s Regional Consultative Group for the Americas meeting in December.

National Association of Insurance Commissioners (NAIC)

Over the quarter, the BMA virtually attended the NAIC’s fall meetings.

European Insurance and Occupational Pensions Authority (EIOPA)

The BMA underwent a Solvency II equivalence monitoring assessment from late November 2021 until early December, during which EIOPA examined the BMA’s supervisory practices.

Bilateral meetings

In the fourth quarter, the BMA held bi-lateral meetings with the Swiss Financial Market Supervisory Authority. Additionally, the BMA met with the European Commission Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA), Insurance to discuss matters of mutual interest, including the new Solvency II proposals.



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