



**BERMUDA MONETARY AUTHORITY**  
**CONSULTATION STATEMENT**

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### **0. Introduction**

This paper sets out the Bermuda Monetary Authority's ("the Authority") approach to consultation and the principles that will govern the Authority's consultation with stakeholders to ensure that the consultative process is both efficient and effective. The Authority recognizes the importance of transparency, and believes that stakeholder participation is critical to sound policy development and implementation.

## **1. Summary**

1. The Authority is committed to raising the standard of its own work particularly where that work involves its many partners and stakeholders. Public consultation is one of the key regulatory tools employed to improve transparency, efficiency and effectiveness of regulation. It involves actively seeking the opinions of interested and affected groups in a two way flow of information which is vital to the development of sound regulatory policy decisions. Further, the Authority recognises broad participation can lead to the drafting of higher quality regulations and legislation. A wide consultative process can also facilitate easier implementation and greater compliance and support for new policies. This Consultation Statement represents the Authority's commitment to improving its consultation process.

## **2. Policy Processes and Governance**

2. The Bermuda Monetary Authority Act 1969 established a Board of Directors ("the Board") to manage the affairs and business of the Authority, and to determine the policy objectives and strategy. To assist in its remit, the Board has a number of subcommittees, including the Legislative and Policy Committee of the Board of Directors ("LPC"). The LPC is responsible for, inter alia:

- Making recommendations to the Board on legislative and regulatory priorities for the development of legislation related to financial services regulation, and overseeing the on-going agenda
- Making recommendations to the Board on proposed changes to primary and subsidiary legislation administered by the Authority and submitted by the Authority's management
- Making recommendations to the Board on regulatory policy generally

3. The LPC is supported by the Authority's Policy, Research & Risk Assessment Department ("PRRAD"). PRRAD is responsible for consulting with managers within the Authority on key issues, making recommendations to the LPC, drafting consultation papers, working with the Authority's Legal & Enforcement Department ("L&E") to draft proposals, consulting with stakeholders generally and (along with L&E) liaising with the Ministry of Finance ("the Ministry") regarding legislative proposals.

## **3. Stakeholders**

4. Generally speaking the stakeholders in the consultative process are Government, financial services institutions, the legal and accounting industries, regulated entities, trade associations, and the public as a whole. The Authority may also seek advice from any other relevant source including government appointed advisory groups, and industry focus groups. Where appropriate, and prior to drafting a consultative or discussion paper, the Authority may seek pre-consultation assistance from various industry groups with expertise on specific issues.

5. The Authority endeavours to reach out to all its various stakeholders as part of the consultative process and will continue to do so. Effective consultation is essential and the Authority welcomes the support provided by trade associations on behalf of their members. The Authority intends to communicate with all its constituencies including certain groups that might not have well defined representation. The Authority will always seek to achieve the most comprehensive viewpoint possible. Since there is no single body representing all parts of Bermuda's market, the Authority welcomes the input from industry partners like the Insurance Advisory Committee (IAC), and the newly formed Bermuda Bankers Association. This kind of inclusion helps to provide a greater level of active representation across market segments, which will assist the Authority when considering cross-sectoral issues. The Authority is committed to seeking the broadest possible input that it can achieve.

#### **4. Consultation Methods**

6. The Authority proposes to use a variety of methods in the consultative process in accordance with what the Authority deems to be most appropriate to achieve its objective. These methods may include issuing consultative papers with draft legislation, discussion papers and conducting informal consultation with select groups.

7. To ensure wide consultation and enhance transparency, the Authority will post to its website consultative and discussion papers, draft legislation and/or related information regarding major issues. Accordingly, the Authority encourages stakeholders to frequently visit its website. The Authority has implemented an e-mail subscription service to alert stakeholders regarding new proposals. This subscription service is available via the website.

#### **5. Consultation Timeframe**

8. Upon issuing or posting a consultative paper or draft legislation, the Authority will allow stakeholders a minimum period of 30 days and up to 60 days to respond to the proposals. The actual length of the period would depend on the perceived importance and possible impact of the proposals. The Authority will always inform stakeholders of the contact information of a relevant PRRAD staff member(s) who is responsible for receiving all responses.

9. The Authority commits to acknowledging stakeholder comments and concerns within 7 days of receipt. The Authority further commits to responding either by communicating directly to the respondent or through general communication to all stakeholders where appropriate. Ideally this communication should occur within 30 days of the close of the consultation period.

## 6. Policy Implementation

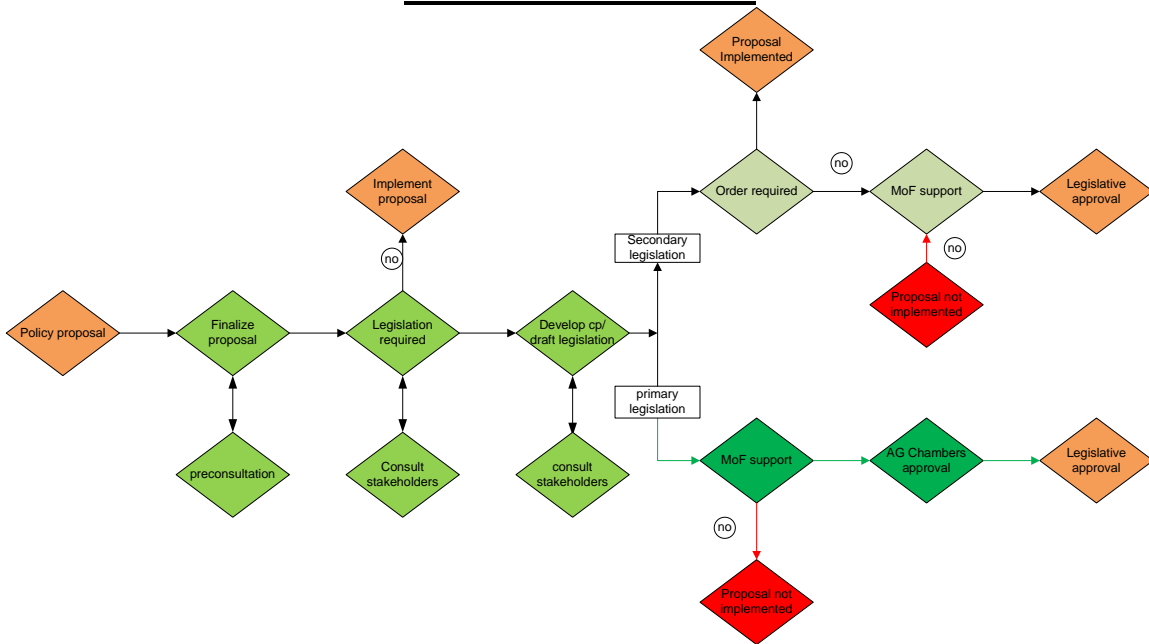
10. The Authority would not normally seek to introduce new legislative changes or implement new policy initiatives without giving institutions and other persons affected by such measures sufficient time to fully assess their implications and implement them. The Authority considers that a period of three to six months would suffice in most cases but may fix a shorter period where such measures are easy to implement, have broad support, or are considered urgent in nature.

11. Recognising the importance of granting regulated institutions sufficient time to prepare for and implement new initiatives and in keeping with its goal of flexibility, the Authority reserves the right to allow the implementation period to extend beyond six months, and where appropriate, to defer the effective date.

## 7. Government’s Role

12. In addition to its role as a consultative stakeholder, the Government plays an important role where the Authority proposes amendments to existing legislation, or the introduction of new legislative provisions. In such cases, the Authority would recommend to the Minister of Finance (“the Minister”) the proposed legislative initiative and invite the Minister to sponsor the legislation. If the Minister supports such proposals, the Minister would seek Cabinet’s approval of the proposals and would invite Cabinet to authorise the drafting and tabling of legislation in the House. The Attorney General’s Chambers, with assistance of the Ministry of Finance and the Authority would draft the legislation, which the Minister would then table in Parliament. Once legislation is approved in the House, it would be sent to the Senate for approval.

## 8. Consultation schematic



Note: When an Order is issued by the Authority, it does not have to go to the House for approval.

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