



BERMUDA MONETARY AUTHORITY

Regulatory Update
July 2004

*(Incorporating Financial Statistics for the
Quarter ended March 2004)*





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REGULATORY, LEGISLATIVE AND OTHER DEVELOPMENTS

This bulletin reports on recent activities at the Bermuda Monetary Authority (the Authority) and recent developments affecting the financial sector, as well as the community generally. Attached to it are the regular statistical data covering Bermuda dollar money supply, Bermuda banks' balance sheet analysis and other financial and company sector information, updated for the quarter ended 31 March 2004.

As announced previously, Balance of Payments Estimates and associated Commentary will be published in a separate document.

(I) Regulatory Developments:

a) **Insurance:**

The Policy Team of the Insurance Division drafted guidance notes on the following topics, which were reviewed by the Insurance Advisory Committee ('IAC') Acts & Regulations Committee on 11th May 2004:

- Market Conduct for Domestic Insurance Business - Insurers and Intermediaries
- Corporate Governance
- Fit & Proper Criteria - Principal Representatives and Intermediaries
- Appointment and Duties of the Insurance Manager

The latter two guidance notes were updated and tabled for review by IAC at their 22nd July meeting. Market Conduct underwent further review by the Acts & Regulations Committee on 8th June and the Corporate Governance Guidance Note is still undergoing revision.

b) **Banking:**

Trusts (Regulation of Trust Business) Act 2001

Following consultation with the market on a number of proposed changes to the Statement of Principles (SOP) under the Act, a revised version of the SOP was finalized during June. The changes relate to Part 6 of the SOP in respect of the procedures used by the Authority when undertaking on-site visits to licensed undertakings. A copy of the new SOP appears on the Authority's website, www.bma.bm.

c) **Investment:**

Enforcement issues:

In order to alert the public, the Authority has now included on its web site details of suspect or bogus entities purporting to be licensed, regulated or established in Bermuda. The names of entities currently listed are as follows: Alliance Central Bank, Aurum Capital Partners Limited, Bermuda Credit Re-Insurance Bank Ltd (or BCRB Credit Re-Insurance Bank Ltd or BCR Bank), Certusia Reinsurance Company Inc, Certusia Reinsurance Group, Global Investment Company, International Credit Union, Soros Holland Investment Fund IV, Standard Financial Trust, Trafalgar Insurance Company Limited, Trans Atlantic Financial Trust Group, and Western Equities Limited. When such concerns arise, immediate action is taken to warn foreign regulators, police and potential victims.



(II) Legislative Developments:

Investment:

The Investment Business Act ('IBA') 2003:

The Authority is continuing to work with the Ministry of Finance to finalise secondary legislation under the new IBA 2003 - in particular, Cold Calling Regulations and the Carrying on Business Order.

Insurance:

The Policy Team, with the assistance of our legislative consultant, **Benjamin Dyer** of Conyers, Dill & Pearman, has submitted proposed amendments to the Insurance Act to the Ministry of Finance. These amendments were based upon the work done on various Guidance Notes related to the Principal Representative, Approved Auditor and Loss Reserve Specialist. New sections are prepared to be added to the Act to detail the approval process for Loss Reserve Specialists and Approved Auditors, duties of the Approved Auditor to communicate certain events to the Authority, as well as a section providing the Authority with the right to issue guidance notes. There are also amendments to Principal Representative reporting requirements, a requirement for Class 1 companies to submit financial statements and notes with their Annual Statutory Return, and provisions to establish the right of the Authority to charge an insurer for costs incurred in the investigation of an insurer by an inspector appointed by the Authority and for fines collected to go to the Authority rather than the Bermuda Government's Consolidated Fund.

The amendments were reviewed by the IAC Acts & Regulations Committee on 8th June and by the IAC on 17th June, prior to submission to the Ministry of Finance. It is expected that the amendments will go before the House during the summer session.

(III) Other Developments:

a) *Seminars, Conferences & Publications:*

On 29th, April 2004, Mrs. **Cheryl-Ann Lister**, Chairman & CEO, joined Premier, the **Hon. W. Alexander Scott** and the **Hon. Paula Cox**, Minister of Finance and other Bermuda financial executives in presenting at the Bermuda International Business Association's ("BIBA") Plenary Bermuda Briefing Program to a group of 90 U.S. securities and trust lawyers and investment professionals. Mrs. Lister gave an overview of financial regulation in Bermuda with specific information on the development of hedge funds regulation and its anticipated growth in Bermuda.

During the week of 17th May, Bermuda hosted the inaugural programme of the **Chinese Executive Insurance Programme** sponsored by ACE Insurance in conjunction with the United Nation's World Trade University ('WTU'). Fifteen Chinese insurance regulators visited the Island to learn about the development of the insurance industry in Bermuda and allow them to learn from the experiences of Bermuda-based insurance executives and regulatory authorities. Ms. **Cheryl Packwood**, General Manager, Corporate Services, Mr. **Shelby Weldon**, Deputy Director, Insurance, Ms. **Marcia Woodridge-Allwood**, Deputy Director, Banking, Trust & Investments represented the Authority and, together with several service provider representatives, made a presentation to the delegation with respect to Bermuda's regulatory approach.



Mrs. **Cheryl Lister**, Mr. **Robert Steinhoff**, Deputy Chairman, Mrs. **Leila Madeiros**, Assistant Director, Policy & International Affairs and Mr. **Glen McKay**, Senior Analyst, Insurance Policy Team attended the NAIC International Insurance Issues Conference, 17th-18th May in Washington, D.C. The topics covered including IMF reviews, emerging markets in Central & South America, the role of NAIC in the global market, as well as discussions on forming a global solvency standard using a risk-based approach. In addition, there was a presentation by Congressman Michael Oxley on recent issues in corporate governance.

Mr. **D. Munro Sutherland**, Superintendent of Banking, Trust & Investment, attended the 22nd Conference of the Caribbean Group of Banking Supervisors in Port of Spain, Trinidad on 6th - 8th May. The meetings included extensive discussions on national approaches to risk-based supervision as well as dealing with issues pertaining to consolidated supervision.

Mr. **Munro Sutherland** also attended, during the week of 17th May, the 29th Annual Conference of the International Association of Securities Commissions ('IOSCO') in Amman, Jordan. The meetings bring together representatives of the world's securities and futures regulators to discuss developing standards for the securities markets and strengthening cooperation between regulators.

Mr. **Shelby Weldon** participated in a regulatory panel at the annual ICAP Captive Conference held at the Fairmont Hamilton Princess Hotel 8th - 11th June 2004. The panel included a number of insurance regulators from various captive domiciles and provided each jurisdiction with the opportunity to update the attendees with respect to any regulatory issues, amendments and/or changes currently being considered in that domicile.

Mrs. **Leila Madeiros** and Mr. **Glen McKay** also attended the Offshore Group of Insurance Supervisors (OGIS) Working Meeting in the Isle of Man from 3rd -5th May, 2003. The BMA is currently assessing the advantages of Bermuda seeking a membership in OGIS.

Mr. **Michael Baker**, Principal, Compliance in the Insurance Division attended two training courses. The first was from 3rd-7th May in Toronto, Canada. The Insurance Supervisor Leadership course focused on developing frameworks for addressing the major issues of regulators. From 10th-14th May, Michael attended OSFI Technical Training reviewed and analysed the OSFI on-site risk matrix program and also, focused on skill developments instrumental in the performance of ongoing regulatory functions.

Ms. **Kristal Bartram**, Senior Analyst and Ms. **Shonette Wilson**, Principal, of the Insurance Division attended a Reinsurance Association of American seminar in Chicago from 10th-12th May. Entitled, "Demystifying Reinsurance", the course provided an opportunity for practical, in-depth technical knowledge enhancement in the area of insurance.

Several members of the Insurance Division attended a presentation by Goldman-Sachs which outlined the attractiveness of hedge funds for investment by Bermuda insurance and reinsurance companies.

On 26th -27th May, Mrs. **Cheryl Lister** participated in an Executive Roundtable discussion and also spoke to a wide audience of Bermudian investment professionals at a seminar sponsored by Ernst & Young. She delivered a presentation that outlined the development of investment regulation in Bermuda and the future of the Global hedge fund industry.



On 22nd-23rd June, Mrs. **Cheryl Lister** attended the Commonwealth Business Council forum in London on Banking & Financial Services for top level world bank regulators and finance professionals. It provided the opportunity to discuss with other Central Bank governors the Basel accord, anti-money laundering regulation, fraud and international capital management.

On 24-25th June, Mrs. **Cheryl Lister** attended the Central Bank Governors' Symposium in London, England. The session on 24th June was an advance, high level workshop on "Current themes in central bank external communications", followed on the 25th, which allowed participants to discuss the use of exchange rate regimes in promoting macroeconomic stability, capital flows between countries and capital account liberalization and controls.

Following the Central Bank Governors' Symposium, Mrs. Lister attended the Annual General Meeting for the Bank for International Settlements ("BIS") in Basel, Switzerland, from 26 -28th June. It was attended by not only BIS member central banks, but also, a number of other central banks. During the meeting, Mrs. Lister was also interviewed for a film that is in development for next year's BIS 75th Anniversary celebration.

b) ***Numismatic Coins & Banknotes:***

The Numismatic Division of the BMA released the final coin in the five-part Heritage series in June. This 2004 issue celebrates the Bermuda tradition of Stone Quarrying. This limited edition, .925 silver, proof finish coin is part of the special series of five coins approved by Cabinet for commemorating the institution of Bermuda Day.

Previous coins have celebrated the Gombeys (2000), State House of St. George (2001), the 100th Anniversary of Cup Match (2002) and the Fitted Dinghy (2003). Collectors who have purchased all four of the previous coins have eagerly anticipated this final piece to the collection and due to the popularity of earlier coins, only 200 of the entire series of five coins remain available.

c) ***Senior Officer Additions/Changes:***

Chris Cassidy was promoted to the position of Principal, Collective Investment Schemes, Investment Department.

Mrs. **Tammy Clarke-Richardson** has joined the BMA as a Banking & Trust Senior Analyst.

Ms. **Wendy Hnatiuk** has joined the BMA as Investment, Senior Analyst.

Mrs. **Crystal Caesar** joined the Insurance Division as a Senior Analyst and will work closely with the Compliance Team in this capacity.

Mark Trott, Senior Analyst with the Authority's Banking and Trust Department, transferred to the Insurance Division, becoming a member of the Compliance Team.



SPECIAL FEATURE – INTERNATIONAL REGULATORY COOPERATION

Vital to the success of an international centre is the development of good working relationships with regulatory bodies in other jurisdictions and a firm commitment to ensuring proper co-operation with them. The Bermuda Monetary Authority (BMA) has and continues to be fully committed to playing its proper part in the wider framework of international regulatory co-operation and liaison.

Bermuda's Position

Since 1999, the Ministry of Finance and the BMA have been engaged on a full update of Bermuda's suite of financial services legislation. This is a substantial undertaking with excellent progress having been made, notably in the Banks & Deposit Companies Act 1999, the Trusts (Regulation of Trust Business) Act, 2001, the Investment Business Act, 2003 and various amendments to the Bermuda Monetary Authority Act, 1969.

Government continues to view this project as critical to the continued health and growth of Bermuda's international business given the increasing pace of change in the development and implementation of regulatory standards in the financial services industry. The unprecedented levels of scrutiny and challenge faced in recent years by offshore financial centres, in particular, underline the importance of having the necessary measures in place and effectively implemented. Centres that lack commitment to these standards are likely to endanger the goodwill of major trading partners and face the prospect of economic damage in the event of criticism voiced or action taken by the international community.

International regulatory cooperation standards have developed very rapidly in recent years. There is now a clear requirement for regulators to be able to cooperate with one another, as well as full clarity as to the scope and extent of regulatory cooperation that is necessary. The requirements were already evident when KPMG conducted its review of financial regulation in Bermuda, (published in 2000) as part of the report into regulation in the UK's overseas territories. KPMG concluded that Bermuda had a strong legislative base for international cooperation but needed to introduce some enhancements - notably to enable the Island to assist foreign regulators where there is a regulatory need for client information to be disclosed. Government accepted the KPMG recommendations.

Privacy Issues

Such regulatory cooperation can raise sensitive issues - in particular, the question of how far it may curtail the normal privacy offered to individuals and businesses. It remains most important to be able to continue to meet the legitimate expectation that clients' business will be kept confidential. In Bermuda, as in other English law jurisdictions, clients have always been reassured that, in the event that private matters were improperly disclosed, common law provided them with certain protection and recourse. Partly as a result, Bermuda never put in place general client secrecy legislation of the kind that exists in some other jurisdictions. But the client's right to legitimate privacy is fully recognised and continues to be given great weight by Bermuda's authorities.



Equally, the client's right to privacy has never been untrammelled. For years, clients have been conscious that, where legitimate cause can be shown, information regarding their activities could be passed on to others. The two most notable examples are the ability for authorities to assist foreign law enforcement agencies in connection with obtaining evidence for use in criminal proceedings or investigations pursuant to the Criminal Justice (International Cooperation) (Bermuda) Act 1994; and similarly, the USA Bermuda Tax Convention Act 1986 which provides for the sharing of fiscal information between these jurisdictions in specific circumstances. Each provision is established for a set, limited purpose and information can only be exchanged for the purpose provided and only when strict tests are complied with.

In responding to the need to provide fuller powers and 'gateways' to enable Bermuda to comply with the new international regulatory standards, Government very carefully ensured that the provisions in no way undermined the basic protections available under common law, were properly limited in their application, and were subject to robust safeguards to prevent abuse. The resultant legislative changes were twofold. The first element introduced detailed provisions within the different regulatory statutes enabling the Authority to disclose (subject to various conditions) confidential information in its possession to equivalent foreign regulators where *there was a valid regulatory need*. The second enabled the Authority to obtain information and documents, *specifically in order to assist a foreign regulator* and was introduced in the Bermuda Monetary Authority Amendment Act 2001, which added new sections 30A to 30D to the Principal Act.

Gateways for regulators to disclose information to assist other relevant bodies were first included in the Bermuda Monetary Authority Act as long ago as 1990. However, at that time the Act also included a specific provision precluding the Authority from passing on any information relating to the affairs of an individual depositor, client or other customer of a financial institution. By 1999, it was evident that such a blanket confidentiality restriction was no longer compatible with enabling Bermuda to meet its international obligations as a cooperative jurisdiction. As a result, detailed information powers and disclosure gateways were introduced into each of the new regulatory statutes overriding the blanket restriction in section 31(1C) of the BMA Act. It was intended to later repeal section 31(1C) as part of a wider tidying-up of the BMA Act.

Current Challenges

After operating satisfactorily for some time, the application of the new regulatory powers and gateways has recently been the subject of two challenges before the Courts in Bermuda. Because of the potentially serious disruption to Bermuda's ability to cooperate properly with foreign regulators, Government agreed to introduce an amendment to the BMA Act in the current Parliamentary session, intended in particular to amend section 31(1C) of the Act to remove any possible doubt over the scope of the new information powers and gateways. The clear object is to ensure that Bermuda can continue to cooperate appropriately with other regulators in the way Parliament had intended. Accordingly, the amendment is in no way intended to change the present legal position as regards the maintenance of proper confidentiality for the affairs of customers of Bermuda's insurance companies, banks, trust companies and investment firms. In parallel, however, in the interests of transparency, the Authority will draft guidance notes, in consultation with industry bodies, intended to clarify its operation of the different information powers and gateways.



STATISTICAL ANNEXE

BERMUDA MONEY SUPPLY

	<i>(BD\$ millions)</i>					
	2002-Q4	2003-Q1	2003-Q2	2003-Q3	2003-Q4	2004-Q1
Notes & Coins in Circulation *	90	79	83	88	94	86
Deposit liabilities:						
Banks and Deposit Companies (unconsolidated)	2,924	3,009	3,061	3,156	3,232	3,387
	3,014	3,088	3,144	3,244	3,326	3,473
Less: Cash at Banks and Deposit Companies	29	18	18	23	28	21
Bermuda Money Supply	2,985	3,070	3,126	3,221	3,298	3,452
% Growth on Previous Period	0.84%	2.85%	1.82%	3.04%	2.39%	4.68%
% Growth Year-on-Year	9.86%	9.49%	11.96%	8.82%	10.49%	12.42%

* This table includes the supply of Bermuda dollars only. United States currency is also in circulation in Bermuda but the amount has not been quantified.

BD\$ DEPOSIT PROFILE - COMBINED BANKS AND DEPOSIT COMPANIES (UNCONSOLIDATED)

	<i>(BD\$ millions)</i>					
	2002-Q4	2003-Q1	2003-Q2	2003-Q3	2003-Q4	2004-Q1
Deposit Liabilities	2,924	3,009	3,061	3,156	3,232	3,387
Less: Loans, Advances and Mortgages	(2,392)	(2,422)	(2,485)	(2,535)	(2,567)	(2,566)
Surplus deposits	532	587	576	621	665	821
Percentage of Deposit Liabilities Lent	81.8%	80.5%	81.2%	80.3%	79.4%	75.8%



**COMBINED BANKS AND DEPOSIT COMPANIES FOREIGN CURRENCY POSITION
(CONSOLIDATED)**

	<i>(BD\$ millions)</i>					
	2002-Q4	2003-Q1	2003-Q2	2003-Q3	2003-Q4	2004-Q1
Total Foreign Currency Assets	15,983	15,204	16,407	17,284	19,502	20,386
Less: Other Assets	164	171	232	219	189	289
Less: Foreign Currency Loans to Residents	585	679	684	728	743	779
Net Foreign Currency Assets	15,234	14,354	15,491	16,337	18,570	19,318
Foreign Currency Liabilities	14,436	13,607	14,723	15,553	17,694	18,546
Add: BD\$ Deposits of Non-Residents	88	95	100	115	174	156
Net Foreign Currency Liabilities	14,524	13,702	14,823	15,668	17,868	18,702
Net Foreign Currency Position (consolidated)	710	652	668	669	702	616

Totals may not add due to rounding



COMPANIES, PARTNERSHIPS AND PERMITS STATISTICS

**APPLICATIONS APPROVED
SUMMARY Q1`-2004**

	2002-Q4	2003-Q1	2003-Q2	2003-Q3	2003-Q4	2004-Q1
Exempted Companies <i>(Bermuda companies exempted from the 60% Bermudian ownership requirement)</i>	275	204	230	233	309	254
Exempted Partnerships <i>(partnerships established in Bermuda to carry on business in or from within Bermuda)</i>	15	6	19	17	31	25
Overseas Partnerships <i>(overseas partnerships applying for permits to carry on business in or from within Bermuda)</i>	0	0	2	1	0	0
Overseas Permit Companies <i>(overseas companies applying for permits to carry on business in or from within Bermuda)</i>	16	10	9	9	4	5
Unit Trusts	6	18	35	4	11	21
Continuation Companies <i>(companies from other jurisdictions continuing into Bermuda as exempted companies)</i>	21	5	11	4	23	5
Unlimited Liability Companies	1	0	1	1	3	0
Local Companies	51	53	55	48	50	59
Total Applications Approved	385	296	362	317	431	369



ADDITIONS TO THE INSURANCE REGISTER

	2002 Q4	2003 Q1	2003 Q2	2003 Q3	2003 Q4	2004 Q1
Class 1 <i>Single-parent captive insuring only risks of its owners or affiliates of the owners</i>	13	8	10	2	13	3
Class 2 <i>(a) a multi-owner captive insuring risks of its owners or affiliates of the owners;</i> <i>(b) a single-parent and multi-owner captive:</i> <i>(i) insuring the risks related to or arising out of the business or operations of the owners and affiliates, and/or</i> <i>(ii) deriving up to 20 percent of its net premiums from unrelated risks</i>	3	3	3	1	4	7
Class 3 <i>Insurers not included in Class 1, 2 or 4, such as</i> <i>i) Reinsurers writing third party business;</i> <i>ii) Insurers writing direct policies with third party individuals;</i> <i>iii) Single parent, group, association, or joint venture captives where more than 20% of their net premiums written arises from risks which are unrelated to the business of the owners;</i> <i>iv) Finite reinsurers and rent-a-captives</i>	17	6	11	4	15	5
Class 4 <i>Insurers and reinsurers capitalised at a minimum of \$100 million underwriting direct excess liability and/or property catastrophe reinsurance risk</i>	1	0	1	1	0	0
Long-Term Insurers <i>Insurers writing long-term (or life) business</i>	2	0	1	2	4	2
Composites <i>Insurers writing combination of long-term (or life) business and Class 1, 2, 3 or 4 business</i>	0	0	0	0	0	0
Total additions during quarter	36	17	26	10	36	17



COLLECTIVE INVESTMENT SCHEMES STATISTICS

	2002-Q4	2003-Q1	2003-Q2	2003-Q3	2003-Q4	2004-Q1
Mutual Funds	741	688	685	657	626	680
Sub-Funds	459	324	302	281	252	240
Mutual Funds	688	685	657	626	680	701
Sub-Funds	324	302	281	252	240	261
Umbrella Funds	50	47	46	47	47	51
Sub-Funds	157	157	155	155	155	161
Feeder-Funds	75	78	113	142	147	161
Segregated Account Companies	0	3	6	9	9	11
Segregated Accounts	0	7	21	35	43	46
Total Mutual Funds	1,294	1,279	1,279	1,266	1,321	1,392
Unit Trusts	76	70	65	63	70	91
Umbrella Trusts	21	29	62	63	65	65
Sub-Trusts	33	33	32	50	82	115
Feeder Trusts	2	2	2	2	4	4
Total Unit Trusts	132	134	161	178	221	275
TOTAL	1,426	1,413	1,440	1,444	1,542	1,667
TOTAL NET ASSET VALUE (IN BILLIONS)	\$68.10	\$71.34	\$88.72	\$99.35	\$115.84	\$129.60

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All enquiries relating to this Notice should be directed to the Bermuda Monetary Authority (by email to info@bma.bm)

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