



BERMUDA MONETARY AUTHORITY

CONSULTATION PAPER

BERMUDA MONETARY AUTHORITY ACT 1969 PROPOSED FEES FOR 2010

23rd September, 2009

BERMUDA MONETARY AUTHORITY ACT 1969 PROPOSED FEES FOR 2010

1. Introduction

This paper sets out the Authority's fee proposals for 2010. It covers those entities that are licensed or exempted under the various regulatory Acts and those that are registered under the Proceeds of Crime Regulations (Supervision & Enforcement) Act 2008. Full details of the new fees proposed are set out in Annex 1.

2. Background

In common with many of the firms we regulate and other financial regulators globally, the Authority is facing increased financial pressure, with investment income and fees from company incorporations and new licence application sharply down on last year. At the same time, also in common with regulators in other jurisdictions, the Authority is finding its workload increasing both in the policy area and in operational supervision in response to the recent financial crisis. While the Authority is committed to running its affairs prudently and efficiently so as to keep the financial burden on regulated firms as low as is possible, some increase in resources will be necessary if the Authority is to achieve its objectives and continue to play its key role in the island's economy.

Accordingly, the Authority intends to undertake a comprehensive fees project next year, with the primary purpose of raising sufficient revenue to balance the Authority's continuing operations' budget with effect from 2011, when the new fees will take effect. At the same time, the Authority intends to use the opportunity of the review to develop a new methodology for setting fees. This will result in a rebalancing of existing fees to reflect more closely than they do now the costs of supervising the different classes of licensed entity we have in Bermuda.

In the interim, mindful that many companies in the financial sector continue to face difficult trading conditions, the Authority is proposing only a limited increase in fees in 2010 for the majority of licensed firms. In one sector, however – firms licensed under the Investment Business Act 2003 - the Authority believes that the justification for fee increases is sufficient to anticipate at least in part the conclusions of next year's review and is therefore proposing a larger increase for this sector in 2010. The Authority is also proposing to introduce transaction-based charging for investment funds and an annual fee for non-licensed institutions registered with the Authority under the Proceeds of Crime Regulations, (Supervision and Enforcement) Act. The details are set out below.

3. Fee proposals

Other than where specified below, it is proposed to increase all annual fees by 5% in 2010. This will apply to insurance companies (with the exception of certain fees for Class 3A, 3B, 4, Long-Term and Special Purpose insurers which were subject to significant increases in 2009), deposit-takers, fund administrators, investment funds, money service businesses and trust companies.

(a) Investment Businesses

Annual fees for companies licensed under the Investment Business Act 2003 ('IBA') have not been substantially increased since 2002. Prior to 2002, annual fees for investment business were levied at a flat rate. However, this was replaced by a three-tiered approach to reflect the range of business permitted to each licensed entity.

The level of fees has not kept pace with the increased costs of supervision. In particular, over the past seven years, the number of Authority staff dedicated to supervising investment businesses has risen from four to six while there has also been a substantial increase in staff in support areas such as Policy, Risk and IT services. Over this period, during which investment business fees have remained static (apart from the across-the-board increase in fees applied to all licensed entities last year to fund the Authority's new AML unit), staff costs have increased by approximately 60%, reflecting not only staff number increases, but recruitment of more experienced staff and general inflationary pressures.

This year, in response to the dislocation in global financial markets and the impact on Bermuda of the Madoff fraud, the Authority has stepped up its supervision of investment firms. More emphasis is now being placed on reviewing compliance with the codes of conduct covering general business standards and advertising and early indications are that more needs to be done in this area to raise standards and ensure better protection of investors.

In the Authority's view, the fees paid by the great majority of investment firms do not reflect the true costs of supervision of that sector. A comparison with fees paid by other types of licensed entity also suggests that IBA fees are low (see table 1).

Table 1: Comparison of IBA and other fees

Legislation/Regulations	Annual Fee 2009 (\$)
Money Service Business Regulations 2006	4,500
Insurance Act 1978	
• Class 1, general & long-term business	10,000
• Class 2, general & long-term business	10,000
• Class 3, general & long-term business	10,000
Investment Funds Act	
• Fund Administrator	8,250
Trusts (Regulation of Trust Business) Act 2001	
• Unlimited licence: less than 5 employees	11,000
• 5 but less than 10 employees	19,250
• 10 or more employees	33,000
Investment Business Act 2003	
▪ Band A	1,375
▪ Band B	2,750
▪ Band C	5,500

Further, when compared with other offshore jurisdictions, the BMA's investment business fees are substantially lower. For instance, for a provider dealing in investments, the Jersey Financial Services Commission charges an annual fee of \$2,490 plus an additional fee of \$2,490 for each of the first ten investment employees, resulting in a total of \$4,980 for a one employee firm. The Guernsey Financial Services Commission has a flat rate of \$4,200 for an investment management licence while the fees levied by the Isle of Man Financial Supervision Commission on a stockbroker (dealer) agent and principal are \$12,780 and \$25,480 respectively. Under the Securities Investment Business regime in the Cayman Islands, securities' arrangers are liable for a \$4,938 annual fee while advisers, broker-dealers and investment managers pay a \$9,876 annual fee.

The current and proposed fees for investment firms are set out in Table 2.

Table 2

Tier	Business Activity	2002 (\$)	2009 (\$)	Proposed (\$)
Band A	Investment advice and arranging deals in mutual funds	1,250	1,375	2,000
Band B	Dealing /arranging deals, but not holding client assets	2,500	2,750	5,000
Band C	Conducting investment business, holding client assets	5,000	5,500	10,000

IBA annual fees not in any of the above categories will be subject to the general 5% increase only.

(b) Approval of Changes Notified under s 25 of the Investment Funds Act 2006

Internationally, as one of the consequences of the global financial crisis, there is an increased focus on the regulation of investment funds. In response, the Authority has commenced a review of the jurisdiction's regulatory framework for funds in the light of recent developments. While the conclusions of the review will not be known for some time, it is already clear that the Authority will have to enhance its supervision of this sector if it is to continue to meet evolving international standards. That will require increased resources.

It is also the case that fund fees in Bermuda are substantially below those prevailing in a number of other jurisdictions, including Cayman, Guernsey and the Isle of Man. For these reasons, a significant increase in fund fees is likely following the Authority's comprehensive review next year.

In the meantime, starting in 2010, the Authority intends to introduce a transaction fee of \$200 for processing material change approvals under s 25 of the Investment Funds Act 2006.

This charge for processing material change requests is new. The Authority processes a large number of applications from funds for approval of material changes in prospectuses and changes to fund service providers, often to tight deadlines, and has had to provide dedicated resources to deal with this work. Introducing a flat transaction charge would be in line with the principle that those funds that make the heaviest calls on the Authority's resources should pay more.

(c) Institutions registered pursuant to Chapter 2 of the Proceeds of Crime Regulations (Supervision and Enforcement) Act

From January 1 2010, the Authority is proposing to introduce an annual fee for institutions registered under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations. The additional expenses involved in the Authority's administration of those Regulations were explained in the 2008 Consultation Paper on Anti-Money Laundering and Anti-terrorist Financing Supervision Fees and were a major factor in the significant fee increases which were imposed on licensed institutions in 2009. The Proceeds of Crime Regulations, (Supervision and Enforcement) Act 2009 imposed obligations on some institutions which were not otherwise licensed by the Authority, to register with it on or before June 30 2009. These institutions are subject to the same obligations, and the same level of supervision in relation to their AML/ATF obligations, as institutions which are licensed by the Authority under any of the Regulatory Acts. The Authority proposes that annual fees be introduced for these newly-registered institutions to cover the costs of AML/ATF supervision and to ensure that the costs of such supervision are spread as equitably as possible across the whole of the AML/ATF regulated sector.

The nature of regulation and the level of detail required to ensure compliance with AML/ATF obligations by registered institutions is significantly less time consuming and expensive than the regulation typically applied to licensed institutions, as a general rule. Nonetheless there is a significant level of information to be acquired from registered institutions and further time and resources spent in reviewing, advising and in general liaison. Comparison with other regulatory fees is more difficult in this area, as most other regulators do not have a separate register of institutions which are regulated solely for the purposes of AML/ATF. The only direct comparison located was to the Guernsey Financial Services Commission, which imposes an annual fee of 840 pounds (\$1387 approximately). There are some circumstances where that fee is reducible, none of which seem applicable to the current BMA situation. **In the circumstances, in view of the fact that 2010 will be the first year in which such fees are imposed, and pending a more comprehensive review next year, it is proposed that the annual fee payable by each institution registered under the above Act should be \$750.**

4. Conclusion

The new fees which the Authority proposes in the above three areas, although an interim step until the more comprehensive review planned for next year, are designed to be more reflective of the costs of supervision and more equitable across the industry.

Full details of all the fees proposed for 2010 are set out in Annex 1.

If you have any comments on the proposals set out in this paper, please send them in writing for the attention of Graeme Dargie, Director Banking Trust & Investment, at the following address:

BMA House
43 Victoria Street
Hamilton
HM 12

Comments should be submitted no later than 16 October 2009.

ANNEX 1

**THE BERMUDA MONETARY AUTHORITY PROPOSED ANNUAL FEES AND RETURNS
EFFECTIVE 2010**

Banks and Deposit Companies Act 1999

- (1) Application for a licence pursuant to section 13(1)....\$21,000.00
 - (a) Deposit Company licence..... \$5,250.00
 - (b) Banking licence.....\$10,500.00

- (2) Annual fee pursuant to section 16 -
 - (a) where an institution falls in band A\$17,325.00
 - (b) where an institution falls in band B.....\$115,500.00
 - (c) where an institution falls in band C.....\$231,000.00

- (3) For the purposes of paragraph (2), an institution falls -
 - (a) in band A, if it has consolidated gross assets not exceeding \$500 million;
 - (b) in band B, if it has consolidated gross assets exceeding \$500 million but not exceeding \$2 billion;
 - (c) In band C, if it has consolidated gross assets exceeding \$2 billion.

- (4) In this paragraph "consolidated gross assets" does not include assets included within the consolidated financial statements of a subsidiary company of the institution which is separately licensed under the Banks and Deposit Companies Act 1999.

Annual fees in respect of (2) above are due on or before 30th April 2010

The Bermuda Monetary Authority Act 1969

- Application for a licence to carry on money service business pursuant to the Money Service Business Regulations 2006 made under section 20AA(2) of the Bermuda Monetary Authority Act 1969.....\$4,725
- Annual Fee pursuant to the Regulations.....\$4,725

Annual fees in respect of the above are due on or before 30th April 2010.

Proceeds of Crime Regulations (Supervision and Enforcement) Act 2008

- Application fee under section 14(1).....\$105.00
- Annual Fee pursuant to section 14(2)\$750.00

Annual fees in respect of above are due on or before 30th April 2010

Insurance Act 1978

(1) Applying for registration as -

- (a) an insurer under section 4(1).....\$551.00
- (b) an insurance manager , broker or agent –
under section 10..... \$315.00
- (c) an insurance salesman under section 10\$75.00

(2) Applying -

- (a) to vary or delete any conditions imposed
on the Certificate of Registration
under section 4(3).....\$221.00
- (b) to register as a different class of insurer
under section 4(6)\$368.00
- (c) [repealed]
- (d) to be granted an extension to the
filing deadline under section 17(4)\$551.00
- (e) to be exempted from the record
keeping requirements of section 18C(2)\$221.00
- (ea) to notify new or increased shareholder
control under section 30D.....\$221.00
- (f) to file an affidavit prior to the payment
of dividends exceeding 25% of a Class
4 insurer's statutory capital and surplus
under section 31B :.....\$221.00
- (g) to receive Bermuda Monetary Authority
approval for an insurer to reduce total
statutory capital by 15% or more under
section 31C\$551.00
- (h) to be granted a direction under
section 56 other than those mentioned
in paragraph (ha).....\$221.00
- (ha) to be granted a direction under section
56, in respect of—
 - (i) exemption from requirement of section
18B to include opinion of loss reserve
Specialist.....\$368.00
 - (ii) modifying of accounting provisions
under sections 15 to 18 and regulations.....\$551.00
 - (iii) modifying margin of solvency for
general business under section 33 and
regulations.....\$368.00
 - (iv) modifying statutory financial returns
under sections 15 to 18 and
regulations.....\$368.00
- (i) to be granted a direction under
section 57A\$1,379.00
- (j) to receive Bermuda Monetary Authority
approval for an asset not appearing on
lines 1, 2, 3(a), 5(a), 9, 10. 11 and 12
as required by the Insurance Accounts

	Regulations 1980, to be treated as "relevant assets"	\$551.00
(k)	to receive Bermuda Monetary Authority approval of letters of credit, guarantees and any other instruments to be treated as other fixed capital	\$368.00
(l)	application for cancellation of registration under section 41(1)(a).....	\$368.00
(m)	application for approval of internal model made under the provisions of an Order made under section 6A.....	\$52,500.00

Fees in respect of the above are due upon application

(3)	Registering as –	
(a)	an insurer-	
(i)	non-resident insurance undertaking under the Non-Resident Insurance, Undertakings Act 1967 (fees in paragraphs (a)(ii) to (x) of this item do not apply to these undertakings)	\$3,650.00
(ii)	Class 1 insurer carrying on general business	\$1,020.00
(iii)	Class 2 insurer carrying on general business	\$1,737.00
(iv)	Class 3 insurer carrying on general business	\$10,500.00
(iva)	Class 3A insurer carrying on general business.....	\$19,950.00
(ivb)	Class 3B insurer carrying on general business.....	\$78,750.00
(v)	Class 4 insurer carrying on general business.....	\$220,500.00
(vi)	Long term insurer.....	\$19,000.00
(via)	Special Purpose insurers.....	\$10,000.00
(vii)	Class 1 insurer carrying on both general business and long-term business	\$10,500.00
(viii)	Class 2 insurer carrying on both general business and long-term business.....	\$10,500.00
(ix)	Class 3 insurer carrying on both general business and long-term business	\$10,500.00
(ixa)	Class 3A insurer carrying on both general business and long term business.....	\$19,000.00
(ixb)	Class 3B insurer carrying on both general business and long term business.....	\$75,000.00
(x)	Class 4 insurer carrying on	

	both .general business and long-term business	\$210,000.00
(b)	an insurance manager, broker or agent under section 10	\$1,406.00
(c)	an insurance salesman under section 10	\$140.00
(4)	Issuing any certificate under section 14(1)(c)	\$551.00
(5)	Inspecting the register under section 14(1)(d)	\$9.00
(6)	The furnishing by the Authority of any document or copy of a document under section 14(1)(e):	
(a)	for the first three pages or part thereof	\$6.00
(b)	for each additional three pages or part thereof	\$6.00

Fees in respect of the above are due upon application

(7) Annual fee under section 14(2) payable by-

(a)	an insurer:-	
(i)	non-resident insurance undertaking under the Non-Resident Insurance Undertakings Act 1967 (fees in paragraphs (a)(ii) to (x) of this item do not apply to these undertakings) ...	\$3,650.00
(ii)	Class 1 insurer carrying on general business	\$1,020.00
(iii)	Class 2 insurer carrying on general business	\$1,737.00
(iv)	Class 3 insurer carrying on general business	\$10,500.00
(iva)	Class 3A insurer carrying on general business.....	\$19,000.00
(ivb)	Class 3B insurer carrying on general business where gross premium written in the year of assessment— exceeds \$50 million but does not exceed \$150 million.....	\$75,000.00
	exceeds \$150 million but does not exceed \$350 million.....	\$100,000.00
	exceeds \$350 million but does not exceed \$2 billion.....	\$140,000.00
	exceeds \$2 billion.....	\$175,000.00
(v)	Class 4 insurer carrying on general business	\$210,000.00
(va)	for each of the calendar years 2009 and 2010 (in respect of the mutual recognition initiative), an additional annual fee shall be payable	

	by each Class 4 insurer.....	\$40,000.00
(vi)	Long-term insurer	\$19,000.00
(via)	Special Purpose Insurers.....	\$10,000.00
(vii)	Class 1 insurer carrying on both general business and long-term business	\$10,500.00
(viii)	Class 2 insurer carrying on both general business and long-term business	\$10,500.00
(ix)	Class 3 insurer carrying on both general business and long-term business	\$10,500.00
(ixa)	Class 3A insurer carrying on both general business and long term business.....	\$19,000.00
(ixb)	Class 3B insurer carrying on both general business and long term business where gross premium written in the year of assessment— exceeds \$50 million but does not exceed \$150 million.....	\$75,000.00
	exceeds \$150 million but does not exceed \$350 million.....	\$100,000.00
	exceeds \$350 million but does not exceed \$2 billion.....	\$140,000.00
	exceeds \$2 billion.....	\$175,000.00
(x)	Class 4 insurer carrying on both general business and long-term business.....	\$210,000.00
(b)	an insurance manager, broker or agent under section 10	\$1,406.00
(c)	an insurance salesman under section 10	\$140.00

Annual fees in respect of the above are due on or before 31st March 2010

Investment Business Act 2003

(1)	Application Fee for a licence pursuant to section 16.....	\$2,100.00
(2)	Annual licence fee pursuant to section 19(b) –	
(a)	where the investment provider carries on —	
(i)	an investment activity of a kind specified in paragraph 2 of Part 2 of the First Schedule to the Act in connection with shares or units in a collective investment scheme;	
(ii)	an investment activity of a kind specified in paragraph 4 of Part 2 of the First Schedule to the Act; or	
(iii)	an investment activity falling within (i) and (ii) above.....	\$2,000.00

(b) where the investment provider carries on an investment activity of a kind specified in paragraphs 1, 2 and 3 of Part 2 of the First Schedule to the Act but is not licensed to hold client assets.....	\$5,000.00
(c) where the investment provider carries on an investment activity of a kind specified in Part 2 of the First Schedule to the Act and is licensed to hold client assets.....	\$10,000.00
(3) Annual licence fee payable pursuant to section 19(b) where an investment provider falls within paragraph (2)(a), (b) or (c) and is part of a group which is subject to consolidated supervision by the Authority as home regulator under the Act, and that group —	
(a) has consolidated net assets not exceeding \$500 million.....	\$57,750.00
(b) has consolidated net assets exceeding \$500 million.....	\$231,000.00

Annual fees in respect of (2) and (3) above are due on or before 30th April 2010

The Investment Funds Act 2006

(1) Application fee: authorisation (all funds).....	\$788.00
(2) Reclassification fee (all funds).....	\$788.00
(3) Annual fee –	
Standard fund.....	\$1,418.00
Administered fund.....	\$893.00
Institutional fund.....	\$893.00
(4) Application fee: exempted funds.....	\$525.00
(5) Annual fee exempted funds.....	\$630.00
(6) Application fee: fund administrator licence.....	\$7,875.00
(7) Annual fee: (fund administrator)	\$8,663.00
(8) Transaction fee: material changes processing.....	\$200.00

Annual fees in respect of (3), (5) and (7) above are due on or before 30th April 2010

Trusts (Regulation of Trust Business) Act 2001

(1) Application for a licence under section 11 (6)(d) where the application is in respect of -	
(a) a limited trust licence	\$525.00
(b) an unlimited trust licence ,	\$5,250.00
(2) Annual fee under section 14(1) -.	
(a) for a limited trust licence	\$1,050.00
(b) for an unlimited trust licence —	
(i) where a licensed company employs, or otherwise engages the services of, less than five persons	\$11,550.00
(ii) where a licensed company employs, or otherwise engages the services of, five or more persons but less than ten ...	\$20,213.00

(iii) where a licensed company employs, or otherwise engages the services of, ten or more persons\$34,650.00.

Annual fees in respect of (2) are due on or before 30th April 2010