



# **BERMUDA MONETARY AUTHORITY**

**CONSULTATION PAPER**

**PROPOSED FEES FOR 2012**

**SEPTEMBER 2011**

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## **BERMUDA MONETARY AUTHORITY PROPOSED FEES FOR 2012**

### **1. Introduction**

This paper sets out the Bermuda Monetary Authority's (the Authority) fee proposals for 2012. It covers those entities that are licensed, or exempted, under the various regulatory acts and those that are registered under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008.

### **2. Background**

The Authority's regulatory regime continues to develop in accordance with its strategic plan with the required increase in resources occurring, for the most part, in 2010 and 2011. In an effort to minimise the impact of fee increases on the financial services industry, the Authority has in the past several years run a deficit, thereby financing a portion of its operations from its existing reserves. Recognising the current weak Bermudian economy, the Authority will follow the same approach in 2012, which will allow 2012 fee increases to be kept to a minimum. Fee increases will focus on those areas where anomalies exist or where 2012 regime change requires an increase in resources.

### **3. Fee Proposal – Annual Fees**

It is proposed that there will be no increases in existing annual business fees in 2012.

### **4. Change in fee structure – Class 3A insurers**

In an effort to ensure regulatory fees remain proportionate to risk, and to align with the other commercial classes of insurance, the following changes in fees are proposed to the Class 3A insurers. These changes will provide a reduction in fees for some insurers:

<b>Characteristics</b>	<b>2012 proposed fee</b>	<b>2011 fee</b>
Gross premium written > \$35 million	30,000	30,000
Gross premium written > \$20 million and < \$35 million	26,000	30,000
Gross premium written > \$5 million and < \$20 million	22,500	30,000
Gross premium written < \$5 million	19,000	30,000
Affiliated re-insurer	19,000	20,000

## 5. Fees for Entities Applying to use Internal Capital Models for Determining Regulatory Capital

In the 2011 Fees Consultation Paper the Authority advised:

“In preparation for allowing certain insurance entities to use their internal capital models (ICM) to set regulatory capital, the Authority is currently developing its policies and procedures relating to its approval of such models. These preparations include, amongst other things, the running of several pilot projects within Bermuda’s insurance industry. In June 2009 the Authority estimated that an appropriate application fee for this process was \$50,000. Based on the work undertaken in the pilot projects it is now clear a fee at this level would be grossly inadequate to allow the Authority to properly vet an internal capital model application. Whilst the process is still evolving, certain principles for setting the application fee have been decided:

1. The total amount of the fee needs to be of sufficient amount to recover internal BMA costs as well as any required external resources.
2. The BMA may outsource all or part of the internal capital model review, with costs passed on to the (re)insurer.
3. The fee will be dependent on several key factors including the size of the entity, the complexity of the underlying business and whether or not the model has been pre-validated by an external party acceptable to the BMA.

In addition to the approval process itself, on going fees to firms using internal capital models to set their regulatory capital will include fees for model change reviews as well as post qualification reviews; the timing of which will be on a risk based cycle.”

### *Business Model:*

The Authority has now settled on an appropriate model for reviewing a firm’s ICM. The review process is detailed in the Authority’s guidance note *Standards and Application Framework for the Use of Internal Capital Models for Regulatory Capital Purposes*. It has been decided the most efficient and effective model for executing this process in the Bermuda environment involves a blend of Authority and external service provider (ESP) resources.

It should be noted that there has yet to be an insurance company ICM approved for regulatory capital purposes anywhere in the world. Also, there is no comparable business model to that intended by the Authority. Some regulators, such as the U.K.’s Financial Services Authority (FSA) have sufficient resources to review and approve ICMs internally. Others, such as Switzerland’s Financial Market Supervisory Authority (FINMA), currently use ESPs to help assess models and review themes across the industry rather than the entire model for specific firms.

*Fees:*

a) Pre-Application

The Authority has developed a pre-application process to provide an indication of the insurer's preparedness to undergo an ICM review. The Authority's fee for this work will be \$40,000, which will cover internal resource costs.

If an insurer's pre-application submission is incomplete and the Authority is required to commit substantial resources in reviewing subsequent submissions, the Authority reserves the right to charge a fee in addition to the initial \$40,000. This fee will be determined at the time the pre-application submission is deemed to be insufficient.

b) Application and Review

Once the Authority confirms that an insurer's ICM satisfies the pre-application requirements, it will indicate to the insurer that it may apply to have its ICM reviewed and provide an estimate as to the application fee. The Authority will work with one or more pre-approved ESPs<sup>1</sup>, in consultation with the insurer, during the pre-application process to assess the scope and cost of work required for the review of the ICM<sup>2,3</sup>.

The Authority's fee for reviewing an ICM will range between \$110,000 and \$160,000 depending on the complexity of the model. This fee, which will cover the Authority's internal costs, will also be determined during the pre-application process.

In addition to the Authority's fees, insurers will be required to pay fees of ESPs who undertake reviews of certain aspects of the ICM on behalf of the Authority. Again, the cost of this work is dependent on the sophistication and complexity of the firm's ICM. While there is no precedent for estimating these expenses, information derived from the pilot projects indicates an order of magnitude of between \$300,000 and \$600,000 per ICM.

*On going fees:*

a) Monitoring

There will be a post-approval monitoring and control process to give the Authority assurance that the ICM continues to assess an insurer's risk exposures and associated capital requirements adequately. The timing of such reviews will be risk-based, but will be no more frequent than annually. The Authority's fee associated with this exercise will be assessed in

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<sup>1</sup> The Authority is currently in discussion with ESPs and plans to identify a panel of qualified teams to assist in the ICM review process. At this time, the Authority does not intend to publish the list of approved ESPs once they are selected.

<sup>2</sup> All confidential information provided to ESPs will be subject to the appropriate confidentiality requirements in cooperation with the insurer.

<sup>3</sup> The Authority does not anticipate assessing an additional fee relating to the ESP's work in estimating scope and cost as this is considered to be a request for proposal.

the year the work is performed and is estimated to be between \$15,000 and \$25,000, depending on the complexity of the ICM.

b) Post-approval re-qualifications

Some sections of a firm's ICM may be subject to requalification if there have been material changes to the version originally approved. The Authority's fee for this work is estimated to be between \$15,000 and \$25,000 per section (e.g. catastrophe risk, reserving risk, use test, governance, dependency / aggregation structures, etc.) plus ESP costs if required. This fee will be assessed in the year the work is performed.

## **6. Entities holding two insurance licences**

Currently, where an entity holds more than one class of insurance licence ("dual registrant"), the Authority levies the higher of the two fees otherwise applicable to the respective classes. It is proposed that from 2012 onwards dual registrants pay an annual business fee for each class of licence held. This fee basis will more accurately reflect the risk and resultant regulatory effort associated with such entities.

## **7. Institutions registered pursuant to Chapter 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008**

It is proposed that the pro-rata of fees for new registrants under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 be discontinued.

## **8. Increase Use of Powers to Obtain Information and Reports**

The Authority recognises the limit to the extent it is able to increase its internal resources to fulfill its various increasing responsibilities and thus intends to use external parties to help fulfill part of its supervisory mandate. Accordingly, it is the intention of the Authority to increase the use of its powers under relevant sections relating to the power to obtain information and reports by the Authority<sup>4</sup>. These powers allow the Authority to utilise external parties to produce reports which will meet a range of the Authority's requirements: for information; for an analysis of information; for an assessment of a situation; for expert advice or recommendations; and for the purposes of risk assessment, risk mitigation and responding to risks which have crystallized.

As per the existing legislation, the costs of such reports will be borne by the firms upon whom the report or information request is commissioned.

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<sup>4</sup> Please refer to The Insurance Act 1978, sections 29A and 52C; The Credit Union Act 2010, section 33; Trusts (Regulation of Trust Business) Act 2001, section 36; Bank and Deposit Companies Act 1999, section 39; Investment Business Act 2003, section 45; Investment Funds Act 2006, section 60; Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, section 30D

## **9. Reclassification of Insurance Entities**

The Authority recognises there remains confusion in the market regarding the annual business fee due in the year an insurer makes application for a class change. For avoidance of doubt, it is the Authority's policy that the amount of annual business fee due is based on the entity's assigned class as at 1<sup>st</sup> January of each year.

## **10. Legislative Change – Annual Fee Due Dates**

It is proposed the due dates for annual fees as set out in the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 section 14 (2)(b), and sections 7 (3) and 7 (5) b of the Investment Funds Act 2006, be changed to 31st March from 30th April.

## **11. Implementation**

The Authority intends to implement the proposals set out in this paper after receiving the requisite legislative approval to allow all 2012 annual fees to be collected by 31st March 2012.

## **12. Upcoming Fee Consultations**

The regulation and supervision of Bermuda's corporate service providers is currently under consideration. Fees levied against such entities will be set to recover the costs of resources required to effectively regulate and supervise such entities in accordance with the responsibilities of the Authority. Consultation on fees for this sector will occur concurrently with the consultation on the new regulatory regime.

## **13. Conclusion**

The new fees which the Authority proposes in the above 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.

If you have any comments on the proposals set out in this paper, please send them in writing for the attention of:

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Comments should be submitted to [berickson@bma.bm](mailto:berickson@bma.bm) no later than 15<sup>th</sup> October 2011.