

21st June 2016

Dear Stakeholders:

Re: SCHEDULE XVIII - SCHEDULE OF ANTI-MONEY LAUNDERING AND ANTI-TERRORISM FINANCING (AML/ATF)

The Bermuda Monetary Authority (the Authority or BMA) would like to thank our stakeholders for reviewing and providing comments on the Schedule XVIII – Schedule of Anti-Money Laundering and Anti-Terrorism Financing (AML/ATF) herein referred to as “the Schedule” which was issued for consultation on 2nd May 2016.

As stated in the Notice to the Schedule, the information which will be collected from the annual filing of this Schedule will assist the Authority in applying a risk based supervisory approach at the insurer and sector level in relation to AML/ATF measures, and the risk analysis subsequently undertaken, will also assist the Authority in preparing for Bermuda’s AML/ATF Mutual Evaluation which is scheduled to be conducted during the first quarter of 2018.

It is important that the Bermuda AML/ATF regime be aligned with international standards, and as such, we appreciate the support and valuable feedback received from our stakeholders in achieving this objective.

The Bermuda Monetary Authority (the Authority or BMA) issued the Schedule XVIII – Schedule of Anti-Money Laundering and Anti-Terrorism Financing (AML/ATF) for consultation and we received the following comments:

Section	Comments from stakeholders	Resolution/Action Required
General	We propose that the data to be provided only include information related to long-term business written in or from Bermuda and not to overseas branches of a Bermuda insurer so long as the overseas branch is a licensed insurer in their respective jurisdiction and subject to broadly equivalent AML/ATF requirements. This is consistent with the approach adopted for National AML/ATF risk assessments by other jurisdictions where our company operates, including Hong Kong, where our Group regulator is based.	The schedule will only be completed by long-term insurers writing direct business in or from Bermuda. However, overseas branches of Bermuda insurers will be required to complete a certificate of compliance confirming that their overseas branches are subject to broadly equivalent AML/ATF requirements. BMA will publish the proposed certificate of compliance form in the near future.
General	Any potential exemption or a simplified schedule (e.g. leverage with the existing annual return filed with the regulator of the principal place of business) for insurers which do not have local business in Bermuda or operate in the jurisdiction which is a member of The Financial Action Task Force (FATF).	The schedule will only be completed by long-term insurers writing direct business in or from Bermuda. However, overseas branches of a Bermuda insurers will be required to complete a certificate of compliance confirming that the overseas branches is subject to broadly equivalent AML/ATF requirements. BMA will publish the proposed certificate of compliance form in the near future.
Table I Paragraph	We suggest BMA to clarify the scope/ definition of reinsurance information	While the schedule will be directed to long term direct business, the Authority will

(2c) and (4)	<p>required in Paragraph (2c) and (4) of Table 1. Apparently, the reinsurance information required in the paragraphs might not align with the scope set in Schedule XVIII (i.e. Page 3 of the draft schedule) that “...in relation to its long term business but excluding any reinsurance business ...”</p>	<p>also be seeking to understand the level of materiality of long term direct business from those insurers underwriting both direct and reinsurance business.</p>
General	<p>We acknowledge that whilst the scope of the proposed Schedule XVIII and Guidance Notes is limited to those insurance managers or insurers that carries on or acts in connection with Long-Term business (other than reinsurance business) falling within paragraph (a) or (c) of the definition of “long-term business” in section 1, as previously conveyed in our meeting with the BMA on May 4th, 2016, we would recommend that the BMA consider a ‘streamlined’ approach in accordance with the principle of proportionality for those within scope who are in run-off. The proposed schedule for reporting would seem inappropriate for those companies not transacting business albeit the payment of claims would still constitute the carrying on of insurance business.</p>	<p>The principle of proportionality is not consistency with FATF international standards. Instead the FATF recommend that countries adopt a risk based approach, were each individual entity will be risk rated on a regular basis and the level activities and or sophistication of that business will determine the level of supervision to be applied on that entity. Therefore, while the Authority will not adopt the principle of proportionality for its AML supervision, the level of supervision for each insurer will be determined through a risk based approach, which will take into consideration the level and size of activities for each insurer.</p>
General	<p>We would appreciate confirmation from the BMA that historical or comparative data would not be required for the first year of filing the schedule since this would take extensive resources to do so. In this regard, we understand that the first filing would be applicable to the 2016-year end for filing in</p>	<p>No historical data will be required for the first filing.</p>

	2017.	
General	<p>We are of the view that some of the data in the proposed schedule of reporting should be done on an exceptions' basis, i.e. only filed if there is a change. In particular, we refer to Table II which will provide the BMA with an understanding of the insurer's AML/ATF corporate governance framework. We are of the opinion that this table should be filed once and then only updated if changes are made. Additionally, we would ask the BMA to consider whether or not Table I becomes an annual filing or subsequently becomes a 'data-call' mechanism by which to collect data.</p>	<p>The Authority will design the schedule in a user friendly format to allow easy roll forward of the information from previous year.</p>
General	<p>Paragraph 4 states "As noted, such insurers are those insurers carrying on long term business and will not include any reinsurance business of a long term insurer". We note that "Table I – AML/ATF Insurer Information" contains a column which refers to "Reinsurance" data. We seek clarification from the BMA regarding this reference to reinsurance.</p>	<p>While the schedule will be directed to long term direct business, the Authority will also be seeking to understand the level of materiality of long term direct business from those insurers underwriting both direct and reinsurance business.</p>
Table I Paragraph 12	<p>We seek further guidance from the BMA regarding the best approach for obtaining answers to some of the requests for information in the Questionnaire that relate to prospective employees providing private personal information such as an individual's financial solvency, and how companies would verify such information. It is felt that</p>	<p>The Authority has removed the "individual financial solvency" question from the schedule.</p>

	some of the questions/expectations mentioned in the Questionnaire may be viewed as inappropriate by potential employees.	
General	The questionnaire references US\$ throughout whereas our company reporting is in Bermuda dollars:	Entities will be allowed to complete the schedule using their current company reporting currency
Table I Paragraph 4	Can you please provide the rationale for differentiating between disability income active lives including waiver or premium and long-term care and disability income active lives other and accident.	The lines of business on the schedule were aligned with the statutory reporting line of business.
	Reinsurance data – are these columns for completion by the reinsurance companies, direct insurers or both.	While the schedule will be directed to long term direct business, the Authority will also be seeking to understand the level of materiality of the long term direct business from those insurance entities underwriting both direct and reinsurance business.
Table I Paragraph 2 (q) (i)	Can you please clarify the reference of General business under 2 (q) (i). Is this referring to P&C business or Group Health and Group Life.	Property and Casualty business
Table I Paragraph 17	This question refers to gross claims paid. Can you advice on what stance is being taken where companies’ book claims on an accrued basis.	For the purpose of this schedule insurers will be required to report gross claims paid.
Table I Paragraph 12	We note the question refers to the verification of an individual’s solvency. This strikes us as being very personal information that would not normally be requested as part of the hiring process,	The Authority has removed the “individual financial solvency” question from the schedule.

	particularly in light of PIPA legislation.	
Table I Paragraph 23	Can you please clarify the definitions of “intermediary” and “unrelated intermediary”.	To add clarity, the Authority has amended “intermediary” to “affiliated intermediary”.
Table I Paragraph 2	Does requirement 2 in table 1 includes business done with sole shareholder, if any?	Yes
Table I Paragraph 3	What can be considered as “designated investment contracts”?	Designated Investment Contracts are defined under section 57A of the Insurance Act 1978.
Table I Paragraph 17	Are Part or Full Surrenders considered as claims? Given the nature of business for Nordica, there are no claims as typically known in insurance. The investment contracts instead can be surrendered partially or in full even before the death of the insured depending on the policy.	For the purpose of this schedule, part or full surrenders will be considered as claims paid.
General	Currently, there is no documented risk groups hence it will be helpful if a guideline on risk group classification will be issued by the Authority.	Annex II paragraphs II.43 through II.56 and paragraphs II.222 through II.238 of the Sector Specific Guidance Notes for Anti-Money Laundering & Anti-Terrorist Financing (AML/ATF) Regulated Financial Institutions carrying out Long-Term insurance business, published on April 27, 2016, provides guidance on how insurers should employ a risk-based approach.
General	We agree that Schedule XVIII should not include any reinsurance business of a long term insurer	Noted
Table I	There is a typo with the document referring	Noted

Paragraph 15	to Table 6A	
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