



BERMUDA MONETARY AUTHORITY

CONSULTATION PAPER

INSURANCE REGULATORY SANDBOX

APRIL 2018

Bermuda Monetary Authority - Insurance Regulatory Sandbox
April 2018

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INTRODUCTION

1. Bermuda has been at the forefront of providing innovative solutions in the insurance¹, Insurance Linked Securities (ILS) and captive market. This has seen Bermuda grow into a leading and well respected insurance financial centre. From a jurisdiction perspective, the Bermuda market has both the largest ILS and captive sectors in the world, and contains one of the world's largest reinsurance sectors.
2. Bermuda Monetary Authority (BMA or the Authority) recognises the growing importance of disruptive innovation in the insurance and wider financial industry and the critical role that innovation plays in promoting efficiency and enhancing competitiveness in the market.
3. The Authority is committed to the viability of the Bermuda insurance market and, given it is a recognised centre of excellence for innovation, providing a regulatory environment that both appropriately protects policyholders², and promotes and is conducive to the use of technology. It is to this end that the Authority is launching two parallel innovation tracks: an insurance regulatory sandbox (sandbox) and an Innovation Hub, both initially targeted at insurance technology (InsurTech) companies
4. The Authority proposes to establish these two parallel innovation tracks to cater to the following:
 - i. Sandbox
For companies that are looking to be subsequently licensed as insurance entities under Section 4 (Regular Insurers) or Section 10 (Insurance Intermediaries) of the Insurance Act of 1978 (the Act).

The sandbox will allow companies to test new technologies and offer innovative products, services, and delivery mechanisms to a limited number of policyholders (or other clients) in a controlled environment and for a limited period of time. Having reviewed a company's proposal, the BMA would determine the legislative and regulatory requirements that would be modified for the duration of the sandbox testing. This will be communicated to the company. The sandbox will have appropriate safeguards to protect the policyholders and counterparties of companies that participate in sandbox testing. For transparency, once approved by the

¹ Unless otherwise indicated the terms "insurer" includes "reinsurer", and "insurance" includes "reinsurance"

² For the purposes of these guidelines, "policyholders", where appropriate, includes "beneficiaries" and "prospective policyholders".

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Authority, a company will be assigned a temporary sandbox license in accordance with its business model. The sandbox license will commence with “I” as an identifier that the company is in the sandbox (i.e., ILT: Long-Term insurer; IGB: General business insurer; IM: insurance manager; IA: insurance agent; IB: insurance broker.) Upon the successful end of the testing period and on exiting the sandbox, the company will be re-licensed to existing Classes (i.e., Classes 1, 2, 3, 3A, 3B or 4 if a general business insurer, Classes A, B, C, D or E if a Long-Term insurer, Special Purpose Insurer, Insurance Manager, broker, agent or salesman) and fully subject to the relevant legal and regulatory requirements. Sandbox participants that conduct insurance manager, broker, or agent activities will receive insurance manager, broker or agent licenses, respectively, upon successful graduation from the sandbox.

ii. Innovation Hub

Apart from InsurTech companies that would qualify for use of the sandbox, the Authority is keen to promote broader dialogue on innovative insurance solutions with all market participants, including those conducting activities that are not directly regulated by the Authority. The Authority has therefore created a working group (BMA insurance innovation working group or BMA IWG) that seeks to act as a platform for exchanging ideas and information. The Innovation Hub may also be used by companies that will eventually apply for entry into the sandbox when the concept is sufficiently developed e.g. cases where the company is still developing its thoughts and ideas and not yet prepared for proof of concept. In order to promote closer dialogue between BMA IWG and market participants involved in the development of various innovative solutions, the Authority has set up a central point of contact via a dedicated e-mail account. Companies or persons who would like to meet with the Authority (or BMA IWG) for further discussion or who simply wish to better understand Bermuda’s current regulatory landscape, should e-mail the Authority at innovate@bma.bm.

iii. Other Sectors

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It is expected that the Sandbox and Innovation Hub will in future, be expanded to include other FinTech start-ups more broadly and specifically virtual currency businesses. Information and consultation on this expansion will be through a separate guidance note.

5. The views of the insurance industry and of other interested persons on the proposals set out in this paper are invited. Comments should be sent to the Authority, addressed to innovate@bma.bm not later than 15th May, 2018.

DISCUSSION

6. The bulk of this paper primarily deals with the sandbox. Appendix III also contains information related to the Innovation Hub. The sandbox will allow companies to test new technologies and offer innovative products and services to a limited number of customers in a controlled environment and for a limited period of time. Having reviewed a company's proposal, the BMA would determine the legislative and regulatory requirements that would be modified for the duration of the sandbox testing. Ultimately, the sandbox will have appropriate safeguards to protect the customers that participate in the sandbox testing. The purpose of these guidelines is to set out the objectives and principles of the sandbox and provide guidance to companies on the application and approval process.
7. The Authority will use the experience arising from the sandbox and Innovation Hub to ensure that its framework for existing Classes is modern. The goal is to use these lessons to update the framework when required to avoid unnecessary discouragement of innovation while maintaining adequate policyholder protection. This will allow both existing licensees and those that graduate from the sandbox to operate in a modern regulatory environment that is both robust and pragmatic.
8. A start-up is a typical candidate for the sandbox. However, while the sandbox is also available for existing insurance licensees, such will be encouraged to conduct the proof-of-concept using a separately incorporated company (subsidiary or joint venture). This subsidiary or joint venture company will receive the sandbox licence. The separation is to minimize potential contagion.
9. The expected benefits of the sandbox include:

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- i. Providing a safe and transparent environment for companies to test their innovations and/or clarify regulatory requirements before seeking formal authorisation and going to the market
- ii. Giving the Authority the opportunity to work together with the company to ensure that appropriate safeguards are incorporated in new products, services and delivery mechanisms before they are released to the market
- iii. Increasing efficiency by reducing the amount of time and cost it takes for innovative products, services and delivery mechanisms to reach the market
- iv. Increasing innovators' access to or improving the terms of, external funding by eliminating or reducing the cost of regulatory uncertainty for start-ups

All the above will ultimately benefit the policyholder by enhancing competitiveness which will lead to provision of a wider range of products, services and delivery mechanisms at a lower cost, while safeguarding their interests through appropriate risk mitigation.

10. The next sections will outline the criteria and the application process for interested parties, as well as the next steps and some use case examples to serve as further guidance to the market.
11. While the Authority intends to implement a formalised application and monitoring process for companies who will be under the sandbox, the Authority wishes to emphasise its goal of having a balanced approach in such a way that the applicable regulations and the Authority's response-to-market speed will not hamper entrepreneurial creativity and innovation.
12. The use cases outlined in Appendix III are for illustrative purposes only, and do not constitute an exhaustive list of possible scenarios that the Authority will consider. It should also be noted that any scenario in this list should not be considered automatically approved unless the Authority deems that the overarching criteria of fit and proper is minimally met, subject further to the eligibility criteria outlined in the next section.
13. Companies registered in the sandbox will be required to conduct business in a prudent manner, including complying with provisions of the law pertaining to Anti-Money Laundering and Anti-Terrorist Financing as provided in the Proceeds of Crime Act 1997, the Anti-Terrorism (Financial and Other Measures) Act 2004, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 and any other international sanctions in force in Bermuda.

14. A list of the companies approved to operate under the sandbox will be posted on the BMA website for transparency to the public.

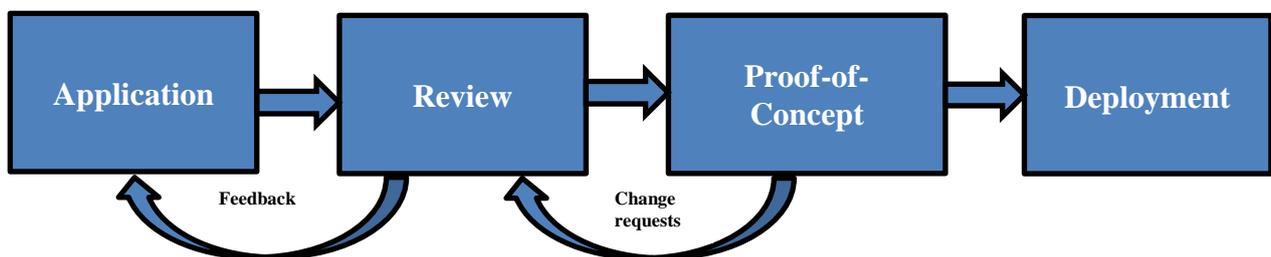
SANDBOX ELIGIBILITY CRITERIA

15. The company should have a clear understanding of the principles and objectives of the sandbox. The activity to be undertaken in the sandbox must be well-defined with a definitive duration as well as associated safeguards to contain any consequences of failure. The sandbox will not be allowed to be used as a means of circumventing legal and regulatory requirements or to benefit from regulatory arbitrage.
16. The criteria that the Authority will use in evaluating the company's eligibility for participation in the sandbox includes:
 - i. The proposed product, service or business model should be new or use existing technology in a different way. The company should demonstrate that the solution it is offering is innovative or significantly different from existing solutions already in the market (i.e. unique)
 - ii. The company should have conducted research and due diligence on the proposed product or service, understand the applicable regulations and have the appropriate risk mitigation plans in place. Through the research already conducted, the company should be able to demonstrate clear benefits of the proposed product or service to the policyholder or industry
 - iii. The company should clearly define its objective for testing the expected outcomes of the sandbox proof-of-concept stage, and be committed to report to the BMA as agreed for the duration of the testing
 - iv. The company should demonstrate its understanding and assessment of associated risks and their mitigation. Of paramount importance is ensuring that policyholders and counterparties of companies involved in the testing phase are adequately protected against loss. The company should have a well-defined exit or transition strategy in case the testing is unsuccessful or discontinued

- v. The company should have the intention, ability and resources to deploy the proposed product, service or distribution channel upon successful testing and exit from the sandbox. This should include demonstrating the ability to meet the applicable legal and regulatory requirements which will come into effect once the company exits the sandbox

APPLICATION AND APPROVAL PROCESS

17. The diagram below depicts the sandbox application and approval process:



- i. **Application:** The company applying for use of the sandbox will verify that it satisfies the eligibility criteria outlined in paragraph 16 and then submit an application to the Authority, together with the requisite fee of \$6,180. See [Appendix I](#) for a guideline on the minimal content of the application. The submission should be e-mailed to innovate@bma.bm with the subject “Insurance Regulatory Sandbox”, or addressed to the **Licensing and Authorisations Department, (Insurance Regulatory Sandbox), BMA House, 43 Victoria Street, Hamilton HM12.**
- ii. **Review:** The Authority will review the application and, if acceptable, advise the company of the legislative and regulatory requirements that will apply during the testing period. Refer to [Appendix II](#) for examples of the legislative and regulatory requirements that the Authority would consider modifying during the sandbox period. Aside from provisions that are modified, comparable legislative and regulatory requirements for insurance captives (Class 1 or Class A), insurance managers, insurance brokers and insurance agents would apply, respectively. The BMA and the company will also agree on various conditions such as the duration, testing parameters, safeguards and reporting requirements. Where appropriate, a more robust regulatory standard than that applicable to captives may be applied.

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The Authority will apply the proportionality principle and consider each application on a case-by-case basis.

The company may need to make adjustments to the application for resubmission after discussion with the Authority. Companies should typically expect the Authority to respond within two weeks of the initial contact and then commence the application process.

- iii. **Proof-of-Concept:** Upon final approval from the Authority, the company will embark on the proof-of-concept stage based on agreed-upon parameters. The Authority will assign a Principal Contact (BMA staff member) to assist the company through the process. The company will engage with the Principal Contact in accordance with the conditions prescribed at the review stage. The proof-of-concept phase will typically be between six and twelve months.

The company must notify its clients that the products, services and delivery mechanisms are operating in a sandbox and disclose the associated key risks. The company is required to obtain a written acknowledgment from its clients that they have read and understood the risks. The company should also maintain a client complaints log to be made available to the Authority.

Any material changes to agreed parameters during the proof-of-concept phase or requests for extension of testing period will need to be approved by the Authority.

- iv. **Deployment:** Upon completion of the proof-of-concept phase, the company must submit a final report to the Authority on the outcomes of the testing including client feedback on the products, services and delivery mechanisms. The Authority may reach out to clients for further feedback if said clients have consented to this. After review of the report by the Authority, the company will then decide whether it will offer the new solution outside the sandbox. If approved by the Authority, the company will be issued a license in accordance with the company's business model and existing insurance licenses (see paragraph 4).

EXTENDING OR EXITING THE SANDBOX

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18. At the end of the sandbox period, the company will be subject to the full legislative and regulatory requirements of the respective insurance licenses. In the event that the company requires an extension of the sandbox, it will need to apply to the Authority and pay the applicable extension fee, at the latest one month before the expiration of the sandbox period. The application for extension should provide reasons for the extension and any relevant supporting documents. The Authority will review the request and respond.
19. There may be instances where the company may decide to exit the sandbox before completion of the proof-of-concept stage or the Authority may require it to discontinue. In both instances, the company must ensure that any existing obligations to its policyholders are fully fulfilled before exiting the sandbox.
20. Instances whereby the Authority may choose to discontinue a company's participation in the sandbox include:
 - i. The company breaching a condition(s) agreed upon at the review stage
 - ii. The Authority is not satisfied with the results of the test scenarios as mutually agreed with the company and deems the solution being offered to be unviable based on these results
 - iii. The Authority becomes aware of a misrepresentation made by the company at the application stage which makes it ineligible to use the sandbox
 - iv. The Authority or the company discover a significant flaw during the proof-of-concept stage whereby the risks posed to the policyholders cannot be adequately addressed; and
 - v. The company informs the Authority in writing of its decision to exit the sandbox at its own discretion

NEXT STEPS

The Authority will start accepting applications to the sandbox from 1st July 2018.

APPENDIX I

APPLICATION GUIDELINES

The application for use of the sandbox should have the following content³ (the Authority may request any additional information that it deems necessary for evaluation):

1. A cover letter providing an executive summary of the application, that it is an insurance sandbox application, and highlighting how the minimum licensing criteria (per the Act for the relevant category of business) would be satisfied;
2. Constitutional documents, i.e. copies of the Memorandum of Association, Certificate of Incorporation or Registration Permit (if applicable and available) or Pre-incorporation forms if not yet incorporated;
3. A business plan, including the following:
 - a. Description of the company and its core business. Include information on the financial standing of the company such as any funds raised from investors;
 - b. Applicant information – company name, address, directors’ names and details, senior management names and details, and relevant individual contact details;
 - c. Capitalisation amount and source(s) of funding (financial information should be in Bermuda Dollar equivalent);
 - d. Overview of the business strategy and plan, including:
 - i. The roadmap to deploy the products, services and delivery mechanisms on a broader scale once the sandbox period is completed;

³ Note: The Authority acknowledges that all documents required for a comprehensive sandbox application may not be available at the time of application, or may not be applicable based on the proposed business plan. Applicants are advised to submit all pertinent documents as applicable (in draft form if necessary) to assist the sandbox licensing review process. In cases where required documentation is not provided, a written explanation for any such omission is required. Applications that do not contain the necessary documents (or justification for omissions) may be deferred or deemed insufficient for review.

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- ii. The ability of the company to meet the legal and regulatory requirements that will apply upon exit; and
 - iii. Details of any current or past participation in a regulatory sandbox in another jurisdiction/country.
- e. Description of the proposed product, service or distribution channel to be offered in the sandbox, including:
- i. How the sandbox eligibility criteria outlined in these guidelines are met
 - ii. Details of how the product/service or technology applied differs from those already existing in the market
 - iii. Benefits that the proposed product/service will have and foreseen risks
 - iv. Any licenses, patents or copyrights that the company holds in relation to the proposed product/service
- f. Nature of testing that will be performed during the proof-of-concept stage, including:
- i. Intended start and end date of the sandbox (duration)
 - ii. Legal and regulatory requirements that the company requests to be modified for the duration of the sandbox
 - iii. Test plan, controls, and scenarios
 - iv. Details of policyholders and counterparties who will be involved and the nature of policyholder protection
 - v. Critical success factors to monitor and measure progress
 - vi. Monitoring plan to ensure prompt notification of any breach of sandbox conditions

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- vii. Quantification of the maximum loss arising from sandbox activities (Bermuda Dollars or United States Dollars) and risk mitigation to minimise the impact of the loss on participating policyholders
- viii. Intended communication to clients disclosing participation in the sandbox and associated risks
- ix. Exit/transition plan for clients in the event the sandbox is discontinued
- g. Where available and applicable, copies of letters of intent from both the ceding and/or reinsurance companies with whom the company plans to conduct insurance business;
- h. Any applicant proposing to write direct Long-Term (life) business (as defined in the Act), undertake insurance manager activities, or insurance broker who intends to place direct Long-Term business on behalf of policyholders must provide a copy of its Anti-Money Laundering and Anti-Terrorism Financing policies and procedures;
- i. Information in respect of shareholders/owners, including:
 - i. Corporate shareholders/owners:
 - 1. Most recent audited financial statements
 - 2. Copies of regulatory filings, if applicable; and
 - 3. Background information
 - ii. Individual shareholders/owners:
 - 1. Personal declaration forms (to be completed by the respective individual as opposed to the company representative)
 - 2. Disclosure surrounding fitness and propriety findings
 - 3. Bank references (for owners of intended insurers to eventually be a commercial Class)

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4. Net worth statements with any foreign currency denominated amounts converted into Bermuda Dollars or United States Dollars equivalent
- j. Information on the board of directors, senior management and/or key functionaries, including curriculum vitae;
- k. Evidence of professional liability insurance coverage (where applicable for intended insurance managers and brokers); and
- l. Insurance company letters of intent, if insurance agency services are intended.

APPENDIX II

LEGISLATION REQUIREMENT FOR COMPANIES INTENDING TO BE REGISTERED IN THE SANDBOX

	Insurance Act 1978 (IA 1978) Requirements	IA 1978 Reference	<i>Potential for modified application in the Sandbox</i>
1	Capital requirements	Sections 33 and 6D	Yes
2	Principal Representative	Section 8	No
3	Approved Auditor	Sections 16 and 16A	Yes
4	Approved Loss Reserve Specialist/Actuary	Section 26	Yes
5	Material change	Section 30JA	No
6	Fit and proper and Minimum Criteria*	Schedule to IA 1978	No
7	Prudential filings	Section 6A	Yes
8	Reportable event	Section 8A	No
9	Fees	Section 14	Yes
10	Shareholder controllers	Sections 30CA to 30EA, and 30J	No
11	Requirement to keep records in Bermuda	Section 18C	No
12	Paid up capital	Section 7	Yes

Note: where a modification is unlikely to be provided, comparable captive requirements (Class 1 or Class A, respectively) will generally apply.

*Includes market conduct and compliance to all relevant AML/ATF and international sanctions in force in Bermuda. As indicated in paragraph 13, these requirements cannot be modified for sandbox applicants.

APPENDIX III

USE CASE EXAMPLES

Sandbox:

1. An insurer wishes to establish a subsidiary in Bermuda and provide parametric insurance coverage using a smart contract platform or other form of self-executing technology to clients. The Authority's sandbox would allow the insurer to effectively test the algorithms behind its underwriting or engage with clients to determine how effective the automatic claim payments process is. Certain regulatory requirements could be modified. As a control, the Authority could limit the number of insureds to whom the insurer issues policies or the sums insured.
2. An insured in the United States has procured multiple policies from insurers in Bermuda. A company who wishes to be licensed as an insurance broker or agent has developed a policy management tool to assist insureds in navigating the different policies it currently holds, and which will help streamline the renewal process of those same policies. The Authority's sandbox could allow the broker to solicit real-time feedback from clients on the platform, with a control being that no renewal could take place until that feedback is received.
3. An insurance start-up wishes to make use of Blockchain solutions to provide insurance and reinsurance products to its customers. The sandbox could facilitate the testing of these solutions by making them available to a limited number of sophisticated customers, who are informed of the potential risks, so as to allow the start-up to learn how the customers most efficiently engage with the Blockchain solutions. The start-up, in turn, would share monitoring information and results with the Authority to ensure that the Authority is informed about the latest technologies and whether changes to existing legislative frameworks might be required.
4. An insurer already licensed by the Authority wishes to partner with an insurance innovator to develop a "smart contract" platform that can be used to manage the multiple policies that it issues to a specific client across multiple classes of business. The sandbox would allow the insurer to test the product and gain feedback from the client, which had been informed of the risks and the mitigation strategies put in place by the Insurer.
5. A global company partners with a technology start up in developing a Blockchain application that it seeks to sell to companies that use captive companies to manage risks. The product aims

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to streamline and simplify the global nature of the captive operations, which usually covers multiple jurisdictions, making a strong case for a distributed ledger solution. The sandbox will allow the company to test the product on a limited basis to its own affiliates, and the feedback received during the sandbox tenure will ensure viability for external use to other players.

Innovation Hub:

6. A company has developed a prototype of a policy wording review tool, which it desires to license to Bermuda insurers and reinsurers. The BMA IWG would provide a platform for the company to enter into a dialogue while the company is engaging with interested users and learning more about the kinds of problems those users would like to see the tool address, so as to tailor their innovative solution to the needs of the Bermuda market.
7. An ILS manager partners with a tech start-up to develop a Blockchain-based system to replace manual operations and automate the process using smart contracts, to increase payment speed between insurers and investors, particularly in handling trading of cat swaps and bonds for example.
8. An InsurTech start-up wishes to develop a global insurance product. The InsurTech start-up can partner with an established insurer. Partnering with an established insurer as a joint venture has the benefit of using the insurer's capital and underwriting licence to complement the start-ups' technology offering. The insurer benefits from an alternative route to market, without the need to upgrade or integrate current customer processes, and the start-up can test and refine its offering within a live, highly regulated environment. This route to market benefits the start-up as it can swiftly demonstrate its value, with minimal cost compared to establishing a licenced insurance company.

April 10, 2018/DRAFT FOR DISCUSSION PURPOSES

A BILL

entitled

INSURANCE AMENDMENT ACT 2018

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1	Citation
2	Amends section 1
3	Amends section 4
4	Amends section 4F
5	Inserts new sections 4EG and 4EH
6	Amends section 5
7	Amends section 6
8	Amends section 6A
9	Amends section 6C
10	Inserts new sections 6E and 6F
11	Amends section 7
12	Amends section 8B
13	Amends section 14
14	Amends section 17
15	Amends section 18A
16	Amends section 18C
17	Amends section 26
18	Amends section 27
19	Amends section 31C
20	Amends section 44A
21	Consequential Amendment
22	Commencement

WHEREAS it is expedient to amend the Insurance Act 1978 and to make consequential amendments;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda and by the authority of the same, as follows:

Citation

1 This Act, which amends the Insurance Act 1978 (the "principal Act"), may be cited as the Insurance Amendment Act 2018.

Amends section 1

2 Section 1 (1) of the principle Act is amended —

(a) by inserting the following definitions in their alphabetical order—

"innovative insurance business" means insurance business approved by the Authority to be carried on by an innovative insurer in an innovative or experimental manner";

"innovative insurer" means a Class IGB or Class ILT insurer ;

"innovative intermediaries" shall refer to IB's, IM's and IA's;

"Class IGB" means an innovative insurer carrying on general business in an innovative or experimental manner;

"Class ILT" means an innovative insurer carrying on long-term business in an innovative or experimental manner;

"IB" means an insurance broker carrying on the business of an insurance broker in an innovative or experimental manner;

"IM" means an insurance manager carrying on the business of an insurance manager in an innovative or experimental manner;

"IA" means an insurance agent carrying on the business of an insurance agent in an innovative or experimental manner.

Amends section 4

3 Section 4 (1) of the principal Act is amended in subsection by inserting the following paragraph after paragraph (d) —

"(e) as an innovative insurer."

Inserts new sections 4EG and 4EH

4 The principal Act is amended by inserting the following sections after section 4EF—

"Class IGB

4EG A body corporate is registrable as a Class IGB insurer where that body corporate intends at the time of its application for registration, to carry on general business in an innovative or experimental manner.

Class ILT

4EH A body corporate is registrable as a Class ILT insurer where that body corporate intends at the time of its application for registration, to carry on long term business in an innovative or experimental manner.

Amends section 4F

5 Section 4F (1) of the principal Act is amended by deleting “4EF’ and inserting the words “4EH”.

Amends section 5

6 Section 5 of the principal Act is amended by inserting the following subsection after subsection (2) —

“(3) In considering whether to register a body as an innovative insurer the Authority shall, in addition to the matters set out in subsection (1), have regard to the following matters—

- (a) whether the innovative insurer has satisfactorily demonstrated to the Authority that it is able to use new or different technological or innovative measures to carry on the proposed innovative insurance business or to provide products or services;
- (b) the sophistication of the policyholders, proposed policyholders and service providers of the innovative insurer.

Amends section 6

7 Section 6 of the principal Act is amended—

- (a) in subsection (1) by inserting “innovative insurer,” after the words “Special Purpose Insurer”;
- (b) in subsection (1A) by inserting or “Class ILT” after the words “ Class B” where they occur.

Amends section 6A

8 Section 6A of the principal Act is amended—

- (a) in subsection (1) by —
 - (i) inserting a new paragraph after paragraph (g) —
“(h) innovative insurer and innovative intermediaries reporting requirements”.
 - (ii) in the tailpiece by inserting “innovative insurers and innovative intermediaries” after the words “registered insurer”;
- (b) in subsection (2) by inserting a new paragraph after paragraph (a) —
“(aa) by different classes of innovative insurer;”.
- (c) in subsection (3) (a) by inserting “,innovative insurer and innovative intermediaries,” after the words “designated insurer”.
- (d) in subsection (3) (b) by inserting “,innovative insurer and innovative intermediaries,”

after the words “registered insurer”.

Amends section 6C

9 Section 6C of the principal Act is amended in subsections (1) and (5) by inserting “, innovative insurer’s,” after the word “insurer’s”.

Inserts new sections 6E and 6F

10 The principal Act is amended by inserting the following section after section 6D—

“Authority may adjust licensing requirements of innovative insurers

6E (1) Without prejudice to its powers under this Act to give directions, the Authority may in the circumstances mentioned in subsection (5) make such adjustments to an innovative insurer’s licensing requirements as it considers appropriate.

(2) Before making any adjustments, the Authority shall serve notice on the innovative insurer of its intention to make adjustments giving its reasons therefor.

(3) An innovative insurer served with a notice under subsection (2) may, within a period of 14 days from the date of the notice, make written representations to the Authority; and where such representations are made, the Authority shall take them into account in deciding whether to make the proposed adjustments.

(4) The Authority shall notify the innovative insurer of the adjustments it has made.

(5) The circumstances referred to in subsection (1) are such circumstances as would cause the Authority to conclude that the requirements applicable to the innovative insurer, including but not limited to; corporate governance, capital and risk management requirements; are inappropriate given the innovative insurer’s risk profile.”

Protection of public interest or policyholders of innovative insurers or clients of innovative intermediaries

6F (1) Without prejudice to its powers to issue directions under this Act, the Authority where it has made a determination, may take any action necessary or desirable to protect the public, policyholders or proposed potential policyholders of innovative insurers or the clients or potential clients of innovative intermediaries.

(2) Before taking any such action under subsection (1), the Authority shall serve notice in writing on the innovative insurer or innovative intermediary, as the case may be, giving its reasons therefor.

(3) An innovative insurer or innovative intermediary served with a notice under subsection (2) may, within a period of 14 days from the date of the notice, make written representations to the Authority; and where such representations are made, the Authority shall take them into account in deciding whether to take the proposed action.”

Amends section 7

11 Section 7 of the principal Act is amended by inserting the following after paragraph (g) —
“(k) as an innovative insurer is \$120,000.”.

Amends section 8B

12 Section 8B (1) of the principal Act is amended by inserting “or IGB,” after the word “Class 1”.

Amends section 14

13 Section 14 (1) (ab) (i) of the principal Act is amended by inserting “10 (1),” after the numbers “4A (2)”.

Amends section 17

14 Section 17 (4) (b) of the principal Act is amended by inserting “, innovative insurer,” after the word “Special Purpose Insurer”.

Amends section 18A

15 Section 18A (2) (b) of the principal Act is amended by inserting “, innovative insurer,” after the word “Special Purpose Insurer”.

Amends section 18C

16 Section 18C (1) of the principal Act is amended in the tailpiece by inserting “, innovative insurer,” after the word “Special Purpose Insurer”.

Amends section 26

17 Section 26 (1) of the principal Act is amended by inserting “, Class ILT,” after the word “Class A”.

Amends section 27

18 Section 27 (1) of the principal Act is amended by inserting “, Class ILT,” after the word “Class A”.

Amends section 31C

19 Section 31C (1) of the principal Act is amended by inserting “, innovative insurers,” after the word “Class 4 insurer”.

Amends section 44A

20 Section 44A (1) of the principal Act is amended by inserting “excluding an innovative insurer or innovative intermediaries;” after the word “person”.

Consequential Amendment

21 (1) The Fourth Schedule to the Bermuda Monetary Authority Act 1969 is amended under the heading “Insurance Act 1978”—

(a) in paragraph (2) (a) by inserting “or section 10 (1)” after the words “section 4 (3)”;

(b) in paragraph (2) (c) by inserting “,innovative insurers” after the words “B insurers”;

(c) in paragraph (3) (a) by inserting a new paragraph after paragraph (xi) —

“(xii) Class ILT\$6,180
(xiii) Class IGB.....\$6,180”.

(d) in paragraph (7) (a) by inserting a new paragraph after paragraph (xi) —
“(xii) Class\$6,180 ILT
(xiii) Class IGB.....\$6,180”.

(2) The Insurance Accounts Regulations 1980 are amended—

- (a) in paragraph 3 (3) by deleting “and Class B insurer” and inserting the words “, Class B insurer and innovative insurer”;
- (b) in paragraph 4 (1) by deleting “or Class B insurer” and inserting the words “, Class B insurer and innovative insurer”;
- (c) in paragraph 5 by deleting “or Class B insurer” and inserting the words “, Class B insurer and ILT insurer”;
- (d) in paragraph 8 by deleting “and Class B insurer” where it occurs and inserting the words “, Class B insurer and innovative insurer”;
- (e) in paragraph 9 by deleting “and Class B insurer” where it occurs and inserting the words “, Class B insurer and innovative insurer”;
- (f) in Schedule I in the headings “**Form 1A**” and “**Form 2A**” by deleting “or Class 3 Insurer” and inserting “Class 3 insurer and IGB insurer”;
- (g) in Schedule II in the headings “**Part V**” and “**Part VI**” by deleting “and Special Purpose Insurer” and inserting “Special Purpose Insurer and innovative insurer”;
- (h) in Schedule III in the heading “**Part IV**” by deleting “and Special Purpose Insurer” and inserting “Special Purpose Insurer and innovative insurer”;
- (i) in Schedule IV in the heading “**Part IV**” by deleting “and Special Purpose Insurer” and inserting “Special Purpose Insurer and innovative insurer”.

(3) The Insurance Returns and Solvency Regulations 1980 are amended—

- (a) in paragraph 2 in the definition of “insurer” by deleting “and Special Purpose Insurer” and inserting “,Special Purpose Insurer or innovative insurer”;
- (b) in paragraph 9 (e) by deleting “or Class B insurer” and inserting the words “, Class B insurer and ILT insurer”;
- (c) in paragraph 14 by deleting “or Class B insurer” where it occurs and inserting the words “, Class B insurer or innovative insurer”;
- (d) in paragraph 14F (m) by deleting “or Class B insurance business” and inserting the words “, Class B insurer or innovative insurers”;

- (e) in Schedule I—
 - (i) in paragraph 1 by inserting “IGB insurer \$120,000” after the words “Class 3 \$1,000,000”;
 - (ii) in paragraph 2 (1), (2) and (3) (a) and (b) and (4), by deleting “or Class 3” where it occurs and inserting the words “, Class 3 and IGB”;
 - (iii) in paragraph 2 (3) in the tailpiece by inserting “IGB insurer 10%” after the words “Class 3 15%”;
 - (iv) in paragraph 3 by inserting “IGB insurer 10%” after the words “Class 3 15%”;
- (f) In Schedule II by inserting “ILT insurer greater of \$120,000 or 0.5% of assets;” after the words “Class B greater of \$250,000 or 1% of assets”.

Commencement

22 This Act shall come into operation on assent.

INSURANCE AMENDMENT BILL 2018

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Insurance Act 1978 (the “principal Act”) by making a number of changes to introduce new class of innovative insurers and innovative insurance managers, brokers and agents.

Clause 1 provides a citation for the Bill and defines “principal Act” as the Insurance Act 1978.

Clause 2 makes provision for the Interpretation section of the principal Act to be amended to insert amongst other things; definitions of new classes of insurers as “*innovative insurers*” (whether proposing to carry on general or long-term “*innovative insurance business*”) and insurance intermediaries to carry on the business of an insurance manager, agent or broker in an innovative, new or technological manner not currently contemplated by the market (i.e., as an *innovative insurance intermediary*).

Clause 3 proposes to amend section 4 of the Act to provide for the registration of innovative insurers;

Clause 4 seeks to insert two new sections after section 4EF of the principal Act to be entitled “4EG” and “4EH”; such new sections are proposed to ensure that the Authority has the ability to determine when an insurer may be registered as a Class ILT or Class IGB insurer.

Clause 5 proposes to amend section 4F by extending the current requirements thereunder to innovative insurers;

Clause 6 proposes to amend section 5 of the principal Act by inserting a new subsection “(3)” to clarify additional factors to be considered by the Authority when registering a body as a Class ILT or IGB insurer.

Clause 7 seeks to amend section 6 of the principal Act by imposing the current criteria relating to further registration requirements to be considered by the BMA prior to registration, on innovative insurers.

Clause 8 proposes to amend section 6A of the principal Act by introducing a power for the BMA to make a prudential standard rule to be complied with by innovative insurers or innovative intermediaries as required.

Clause 9 proposes to amend section 6C of the principal Act by amending subsections (1) and (5) to make provision for an application to be submitted by innovative insurer or innovative intermediaries (or the BMA upon its own volition where required) to exempt or modify any prudential standard requirements imposed on such persons.

Clause 10 seeks to insert a new sections 6E to provide a power to the Authority to adjust the licensing requirements of an innovative insurer where the risk profile of the insurer appears to significantly deviate from *inter alia*; any policies or standards applicable to it and 6F to provide the Authority with a general power to take any action necessary to protect the public or policyholders or potential policyholders of innovative insurers or intermediaries.

Clause 11 proposes to amend section 7 of the principal Act by imposing a paid up share capital requirement of \$120,000 on innovative insurers.

Clause 12 seeks to amend section 8B of the Act to require Class IGB insurers to appoint an approved loss reserve specialist when directed by the Authority

Clause 13 seeks to amend section 14 (1) (ab) (i) of the principal Act by imposing an application requirement on all persons registered under section 10 (1) to vary, delete, etc., any condition imposed at registration.

Clause 14 seeks to amend section 17 (4) (b) of the principal Act by imposing the existing requirement for an insurer to keep and file statutory financial statements on an innovative insurer.

Clause 15 proposes to amend section 18A (2) (b) of the principal Act to impose a requirement on innovative insurers to be liable to civil penalty where they do not comply with obligations imposed to file financial statements or returns with the Authority.

Clause 16 seeks to amend section 18C of the principal Act to require innovative insurers to keep records of account in Bermuda.

Clause 17 seeks to amend section 26 (1) of the principal Act to require innovative insurers carrying on long-term business to appoint an approved actuary.

Clause 18 seeks to amend section 27 (1) of the principal Act to require innovative insurers to include a certificate prepared by its approved actuary relating to the amount of the outstanding liabilities re its long term business in its statutory financial return submitted to the Authority.

Clause 19 seeks to amend section 31C of the principal Act to require innovative insurers to apply to the Authority to reduce its total statutory capital by 15%.

Clause 20 proposes to amend section 44A (1) of the principal Act to exclude innovative insurers from appealing decisions of the Authority to cancel its license etc.

Clause 21 makes provision for consequential amendments to be made to the Fourth Schedule to the Bermuda Monetary Authority Act 1969 to impose amongst other things, registration and annual fee requirements on innovative insurers and intermediaries; to the Insurance Accounts Regulations 1980 to impose certain obligations on innovative insurers when filing annual statutory financial statements and the Insurance Returns and Solvency Regulations 1980 to make provision for certain requirements thereunder to apply to innovative insurers.

Clause 22 makes provision for the proposed requirements to come into operation on assent.