



BERMUDA MONETARY AUTHORITY

CONSULTATION PAPER

NEW INSURERS AND INSURANCE MARKET PLACE

14 May 2019

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I. EXECUTIVE SUMMARY

1. This Consultation Paper sets out the Bermuda Monetary Authority's (Authority or BMA) proposed regulatory regimes for new classes of Limited Purpose Insurers¹ (LPIs) and a new category of an intermediary (insurance market places).
2. Bermuda has been at the forefront of providing innovative solutions in the insurance, Insurance Linked Securities (ILS) and captive markets. Bermuda recently established an insurance regulatory sandbox and insurance innovation hub. The willingness to adapt the regulatory regimes to align with international developments at both the regulatory and industry levels has seen Bermuda grow into a leading and well-respected insurance financial centre.
3. 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.
4. 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 appropriately protects policyholders while remaining conducive to product and technological innovation. It is towards this end that the Authority is proposing to introduce new classes of LPIs (a fully collateralised reinsurer class (Collateralised Insurers) and an innovation class (Class IIGB)). The Class IIGB will be for innovative business models utilizing digital assets. It should be noted that these new classes are LPIs. While the proposed regimes are being designed to meet the international insurance regulatory standards adopted by the International Association of Insurance Supervisors (IAIS), they do not fall within the commercial frameworks that are Solvency II equivalent.
5. Additionally, the BMA proposes to introduce a new category of intermediary given the growing interest in the establishment of InsurTech related insurance market places.
6. In August 2018, the Authority published "Consultation Paper Proposed Fees" which explained that the Authority had made a conscious decision to fund a number of its achievements over the past several years by drawing from, and reducing, its capital base as opposed to increasing fees; however, to ensure its sustainability while (i) continuing implementation of a world-class regulatory regime, (ii) maintaining recognition as a leading international financial centre among relevant standard-setting bodies and peer jurisdictions, and (iii) offering an environment that is perceived as attractive and proportionate by financial institutions, it would need to significantly increase fees. The

¹ For the purposes of this Consultation Paper, "insurance" includes "reinsurance" and "insurer" includes "reinsurer" unless otherwise specified.

publication proposed legislation that this increase be phased over a two year period commencing in 2019. The legislation was implemented, except the phasing period was extended to three years. The fees proposed in this Consultation Paper reflects a similar phasing.

7. 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 Wednesday, 12 June 2019.

II. INTRODUCTION TO COLLATERALISED INSURERS

8. The Special Purpose Insurers (SPIs) regulatory framework was established in 2009 with the enactment of legislation and the publication of an SPI Guidance Note. From then, Bermuda's Insurance Linked Securities (ILS) sector experienced phenomenal growth to capture in excess of 70% of outstanding global ILS issuance, and Bermuda's wider alternative capital sector has grown to approximately 58% of global insurance alternative capital capacity.
9. The majority of the transactions and structures when the SPI regulatory framework was established were simple, limited duration catastrophe bond and similar transactions. While there remain a fair share of deals that qualify for the SPI regulatory framework, the industry has evolved to include more complex structures and deals, such as a desire to make use of leverage and transact with a greater variety of cedant types, including unrated non-affiliated cedants. The Authority has also traditionally classified Segregated Account Companies as Class 3 insurers. As a result, a number of insurers providing collateralised property catastrophe insurance have been identified in this insurer class. The Authority is not of the view that these new insurer activities are appropriate for the SPI or Class 3 insurer regulatory frameworks; however, a more proportionate regime than the standard commercial regimes (Classes 3A, 3B and 4) appears to be required instead. Accordingly, the BMA proposes to establish a new LPI fully collateralised reinsurer class (Collateralised Insurers) to reflect the characteristics of the new structures.

III. PROPOSED REGULATORY FRAMEWORK FOR COLLATERALISED INSURERS

10. While unrestricted SPIs are generally only allowed to contract with non-affiliated cedants rated A- or higher by AM Best or similar rating agencies, the BMA proposes to allow Collateralised Insurers to enter into transactions with unrated non-affiliate cedants. Additionally, Collateralised Insurers would be able to fully fund potential obligations on each contract to either hard contractual limits or a modelled limit, provided contractual terms are clear and certain. And a wider variety of contingent collateral sources, such as reinsurance and other financial instruments, would qualify for the Authority's definition of fully funded within the context of Collateralised Insurers. Given the latitude with respect to cedants, Collateralised Insurers would be required to have a more robust underwriting infrastructure than is required of SPIs, particularly if entering into transactions with unrated, non-affiliate cedants. Collateralised Insurers would be required to meet the head office requirements of Section 8C of the Act in accordance with proportionality. Collateralised Insurers would be similar to an SPI in that it can write either Long-Term Business or General Business, but cannot write both in the same entity. Appendix IV compares and contrasts the regulatory frameworks of SPIs and Collateralised Insurers.

11. The BMA proposes that the Collateralised Insurers regulatory reporting framework and statutory financial statements be based upon audited US GAAP, IFRS or any other GAAP recognised by the Authority. Collateralised Insurers may alternatively use audited condensed GAAP as prescribed by the Authority for these purposes. The Collateralised Insurers' framework will also provide for public filing of both these financial statements and the Declaration of Compliance.
12. Given the nature of such insurers having a higher risk profile than "traditional" SPIs, the Authority proposes that Collateralised Insurers will require permanent regulatory capital². This regulatory capital requirement is proposed to be the higher of a \$250K floor and a risk-based capital requirement reflecting operational risk. The operational risk charge is proposed to be risk sensitive and based upon the quality of the Collateralised Insurer's risk management and governance in relation to its operational risk. The quality score is determined via the CIRA³ framework self-assessment process (subject to the BMA's ability to review and revise). The score will correspond with an associated percentage (ranging from 0.05% to 0.88% - see Appendix III) that will be multiplied by total assets held as collateral on the statutory balance sheet date. The Collateralised Insurers would be permitted to reduce the product of this calculation up to 50% by deducting the adjusted limits of any Errors and Omissions (E&O) indemnity coverage it has purchased from an insurer rated A- or higher by AM Best or a similar rating agency. For the purposes of this calculation, the adjusted limit is the aggregate contract limits less any associated aggregate deductibles. The Authority proposes to reserve the right to reduce the 50% credit if inappropriately applied by a Collateralised Insurer. To qualify for the credit, the Collateralised Insurer must be able to demonstrate that its E&O policy will respond to a material operational risk event that is relevant for its business model. A Collateralised Insurer will also be required to file annually with the Authority a copy of its E&O insurance policy(ies) and a stress test demonstrating how this insurance would likely respond to relevant operational risk
13. Where insurance contract limits do not clearly adjust to reflect asset impairments, Collateralised Insurers will also need to hold permanent capital for the market and reinsurance credit risks arising from the assets held as collateral at 99% Tail Value-at-Risk (TVaR) over a one-year time horizon. Exceptions are where assets held as collateral are invested in cash and cash equivalents (i.e., no market risk charge will be incurred) and, in the case where a contingent capital source is used as collateral, where there is a cut-through clause supported by a high rated entity (e.g. another reinsurer rated A- or higher by AM Best or a similar rating agency). Where an insurer accepts tail risk on a collateralised contract that has limits based on a return period, this is proposed to be allowed in Collateralised Insurers rather than the hard limit

² For the purposes of this Consultation Paper, "permanent capital" the residual in excess of the capital that is encumbered to collateralize insurance contract limits.

³ "CIRA" is an acronym for Commercial Insurer Risk Assessment. It includes the operational risk self-assessment process performed by a commercial insurer to determine its operational risk rating. The Authority proposes to apply the same process to Collateralised Insurers; however, the design of the risk charge will differ.

currently required for SPIs. The tail risk should be either reinsured or capitalized to maintain the collateralised basis of Collateralised Insurers.

14. In instances where the lead insurer of a complex Bermuda-based insurance group is a fully collateralised reinsurer then the Authority may license that insurer as a Class 3A or other commercial class to bring the group within the scope of group supervision in accordance with Section 27B of the Insurance Act 1978 (the Act).
15. Applications for modifications permitted within other regulatory frameworks would be allowed under the Collateralised Insurers' regulatory framework using the same application process.
16. The registration and annual business fees for 2019 for Collateralised Insurers will be (at the three-year transitional rate) based upon the amount of assets held as collateral subject to a floor (see Appendix III).

IV. INTRODUCTION TO CLASS IIGB

17. While ILS, and alternative capital more widely, have been around for a number of years, the advent of the financial crisis that began in 2008 brought about a shift in the composition of the investor base supporting this asset class. Once primarily the domain of hedge funds, the asset class experienced significant investment by pension funds and endowments that came to view alternative capital as a viable asset class to diversify investment portfolios. The Authority's timing of the introduction of the SPI class in 2009 was beneficial for Bermuda becoming the largest alternative capital centre in the world.
18. Similar to the convergence of insurance and capital markets in the form of alternative capital, the BMA envisioned that the next frontier over the next decade will be the convergence of insurance, capital markets, artificial intelligence, and distributed ledger technology (e.g. blockchain) both with and without digital assets. Accordingly, the BMA began positioning its insurance regulatory framework to be able to address the innovation with the introduction of the insurance regulatory sandbox and insurance innovation hub. To capitalize further, the Authority proposes to introduce a non-sandbox innovation class (Class IIGB).
19. Given there is already significant flexibility in existing classes, it is envisioned that the Class IIGB regulatory framework will initially be for specific innovation (primarily the insurer business models that incorporate digital assets), as opposed to all innovation which can be incorporated in the other classes, e.g. business models that provide indemnity coverage for digital assets in fiat currency can be appropriately regulated in another class. Nonetheless, the Authority will exercise a case by case assessment and is prepared to allow other innovations if the Class IIGB framework proves to be the most appropriate. The Class IIGB will not be allowed to

be used as a means of circumventing appropriate legal and regulatory requirements or to allow an insurer to benefit from regulatory arbitrage.

20. The BMA envisions that the insurance sector will increasingly embrace the token economy (digital assets) to enhance liquidity and risk transfer efficiency. Further, the insurance capacity for digital asset businesses is scarce. As more jurisdictions introduce robust regulatory frameworks for digital asset businesses, similar to the Digital Asset Business Act 2018 (DABA) and related regulation in Bermuda, and the digital asset business sector matures, this could be a growth area for insurance indemnity coverage.
21. Currently, a few insurers are prepared to provide insurance indemnity coverage in fiat currency; however, eventually (arising from the demand) both premiums will be paid and indemnity coverage will be provided in the form of a digital asset for a number of insurance contracts. Given the challenges in valuation and other complexities with digital assets, the Authority is proposing the introduction of a Class IIGB.

V. PROPOSED REGULATORY FRAMEWORK FOR CLASS IIGB

22. Where appropriate, the Authority proposes to initially grant a Class IGB (regulatory sandbox) license to business models incorporating digital assets and then the Class IIGB once these graduate from the insurance regulatory sandbox. Where an insurer business model and necessary infrastructure to operate are well developed, the Authority may allow the regulatory sandbox to be by-passed.
23. Similar to Collateralised Insurers, the BMA proposes that the Class IIGB insurer regulatory reporting framework and statutory financial statements be based upon audited US GAAP, IFRS or any other GAAP recognized by the Authority. Class IIGB insurers may alternatively use audited condensed GAAP as prescribed by the Authority for these purposes. The Class IIGB regulatory framework will also provide for public filing of both these statements and the Declaration of Compliance. In cases where US GAAP or IFRS has not provided for valuation standards for digital assets, the BMA proposes to prescribe valuation standards in rules.
24. The Authority proposes that Class IIGB insurers would be required to meet the head office requirements of Section 8C of the Act in accordance with proportionality. Class IIGB insurers would also be subject to a risk-based regulatory capital requirement arising from a model resembling the Bermuda Solvency Capital Requirement (BSCR-SME), reflecting all material risks at 99% TVaR over a one-year time horizon. This capital requirement (Enhanced Capital Requirement) will be subject to a minimum margin of solvency floor that would be the same as the Class 3A requirement.

25. Particularly in the case of insurers incorporating digital assets within their business models, the Class IIGB regulatory framework will provide for the ability for the BMA to issue supervisory directions to tailor requirements to suit the characteristics of the business model given the vast variety that may seek to be licensed.
26. Where a Class IIGB insurer enters into an insurance contract that allows for claims to be settled with a digital asset, the Authority will generally require that the premiums also be paid in that same digital asset to reduce basis risk.
27. Applications for modifications permitted within other regulatory frameworks would be allowed under the Class IIGB regulatory framework using the same application process.
28. The registration and annual business fees for Class IIGB insurers will be (at the three-year transitional rate) based upon gross premiums written subject to a floor (see Appendix III).

VI. INTRODUCTION TO INSURANCE MARKET PLACES

29. The convergence of a number of factors significantly reduced the average return on equity across the reinsurance sector over the past several years. These include, until recently, softening of reinsurance pricing, low-interest rate environment, and excess capacity, including that supplied by alternative capital. This has placed pressure on reinsurers to seek operational efficiencies and reduce expenses.
30. The environment has also created opportunities for entrepreneurial pursuits to decrease reinsurer business acquisition frictions, including InsurTech. One set of InsurTech business models the BMA has been exposed to are insurance market places.
31. An insurance market place may be defined as a forum or platform established for the purpose of bringing insurance buyers and sellers together to buy and sell insurance coverage via auction or other arrangements, or for trading insurance contracts.
32. Insurance market places may manifest in a variety of business models, ranging from touching aspects of insurance agent and/or broker activities to provision of clearing and claims management services.

VII. PROPOSED REGULATORY FRAMEWORK FOR INSURANCE MARKET PLACES

33. The BMA is of the view that insurance market places should be regulated as insurance intermediaries. While insurance market places may prove to be beneficial in bringing buyers and sellers of insurance together in an efficient manner, there could be risks around contract execution, price discovery algorithms, transparency and protection of client data. The Authority's emphasis for its proposed regulatory framework for

- insurance market places would be on fit and proper requirements with respect to controllers and officers, governance and risk management, and control environment particularly related to operational, technology and cyber risk.
34. Where an insurance market place provides clearing services that could give rise to additional risk exposure from the contracts that are trading on it then consideration would be given regarding whether an insurer license is appropriate. Such may arise when the service provides a guarantee against counterparty risk.
 35. Where an insurance market place provides services that would fall under DABA, it will be required to also be licensed under DABA. Consolidated supervision within the Authority will be applied to reduce regulatory burden.
 36. While, for the most part, the BMA proposes that the insurance market place regulatory regime resemble the insurance agents' regulatory framework, for certain business models, there may be aspects of the insurance agents' framework that needs to be modified to address the unique characteristics of insurance market places. Accordingly, in the short-term, the BMA may initially place certain insurance market places in its regulatory sandbox for a period. Nonetheless, the Authority proposes that the insurance market place regulatory framework will provide for the ability of the BMA to issue supervisory directions to tailor requirements to suit the characteristics of the business model given the vast variety that may seek to be licensed.
 37. Under the proposed regime, Bermuda insurance market places will require a Principal office and have a presence on the island that is sufficient to facilitate the BMA achieving its prudential goals. The BMA will take a proportional approach, but minimally would wish to have a person(s) resident who is involved as a director and or officer and integrated within the key decision-making process, thus knowledgeable with respect to the insurance market place's strategy and operations. As the insurance market places scale, it would be expected that the physical presence in Bermuda will likewise scale.
 38. Where appropriate, the Authority proposes to grant a regulatory sandbox license (IMP) initially for companies applying to become insurance marketplaces, and then the full Class (Insurance market place) once they graduate from the regulatory sandbox. Where a business model and infrastructure is well developed, the Authority may allow the regulatory sandbox to be by-passed.
 39. The proposed registration and annual business fees for insurance market places will be (at the three-year transitional rate) based upon the number of transactions serviced by the platform, subject to a floor (see Appendix III).

VIII. APPENDIX I

Amendments to the Insurance Act 1978 and New Rules for LPIs

The following are the proposed amendments to the Act to establish regulatory frameworks for Collateralised Insurers and Class IIGB:

Amend Section 1(1) by replacing “‘Class 1’, ‘Class 2’, ‘Class 3’, ‘Class 3A’, ‘Class 3B’, ‘Class 4’ and ‘Special Purpose Insurer’ in relation to an insurer carrying on general business mean the class of insurer registered under section 4” with “‘Class 1’, ‘Class 2’, ‘Class 3’, ‘Class 3A’, ‘Class 3B’, ‘Collateralised Insurers’, ‘Class IIGB’, ‘Class 4’ and ‘Special Purpose Insurer’ in relation to an insurer carrying on general business mean the class of insurer registered under section 4”.

Amend Sections 4 and 4A by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” in every place it occurs to make provision for registration of the new LPI classes.

Insert after Section 4EH the following sections:

Section 4EI – “A body corporate is registrable as a Class IIGB where that body corporate intends at the time of its application for registration to carry on general business in an innovative manner.”

Section 4EJ – “A body corporate is registrable as a Collateralised Insurer where that body corporate intends at the time of its application for registration to carry on special purpose business but the Authority deems that the risk profile is too high to register it as a Special Purpose Insurer.”

Amend Section 4F by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” in every place “Class 3A” appears to make provision for defined terms under the Insurance Accounts Rules 2016.

Amend Section 6 by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” in every place “Class 3A” appears to make provision for these new LPI classes for registration purposes to be required to meet the minimum criteria, the minimum margin of solvency, the enhanced capital requirement, and the available capital and surplus.

Amend Section 6A(1) by inserting “and other” after “prudential” to make provision for the establishment of a variety of standards, such as statutory accounting standards.

Insert after Section 6C(5) the following sections:

Section 6C(6) – “Without prejudice to Section 6C(1), the Authority where it has made a determination may take any action necessary or desirable to protect the public, clients or policyholders, or potential clients or policyholders of Class IIGB insurers or insurance market places where the Authority concludes that, due to the nature, scale, and complexity and risk

profile of the Class IIGB insurer or insurance market place, such action is necessary in the interest of the public or is required to be taken for the protection of clients or policyholders, or potential clients or policyholders of any Class IIGB insurer or insurance market place.”

Section 6C(7) – “Before taking any such action under Subsection 6C(6), the Authority shall serve notice on the Class IIGB insurer or insurance market place giving its reasons therefor.”

Section 6C(8) – “A Class IIGB insurer or insurance market place served with a notice under Subsection 6C(7) may, within a period of 28 days from the date of the notice, make written representation to the Authority and where such representations are made, the Authority shall take them into account in deciding whether to take the proposed action.”

Section 6C(9) – “The Authority shall notify the Class IIGB insurer or insurance market place of any action it has taken.”

Amend Section 7(1) by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” to provide for minimum paid up share capital for the new LPI classes.

Amend Section 8B to provide for the appointment of a loss reserve specialist who is qualified to provide an opinion for Class IIGB and Collateralised Insurers in accordance with any rules prescribed by the Authority.

Amend Section 8C to provide for a head office requirement for Class IIGB and Collateralised Insurers, except non-resident undertakings and permit companies as defined in Section 134 of the Companies Act 1981.

Amend Sections 14(i) to (iii) to provide for fees to be charged to Class IIGB and Collateralised Insurers.

Amend Section 15A(6) by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” to provide for a penalty for the new LPI classes for failure to file a Declaration of Compliance.

Amend Section 17(4)(b) by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” to provide for a maximum extension of statutory filing periods for the new LPI classes.

Amend Section 17A by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” in every place “Class 3A” appears to make provision for the new LPI classes to publicly file financial statements and Declaration of Compliance.

Amend Section 18A(2) by inserting “Class IIGB, Collateralised insurers” after “Class 3A” to provide for a penalty the new LPI insurers for failure to file statutory returns.

Amend Section 18C(1) by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” to provide for the new LPI classes to maintain records in Bermuda.

Amend Section 30EA “Class IIGB, Collateralised Insurers” after “Class 3A” in every place “Class 3A” appears to make provision for the LPI classes to be required to notify the Authority of disposal of shares by shareholder controllers.

Amend Section 31B by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” to make provision for pre-notification of dividends for the new LPI classes.

Amend Section 31C by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” to make provision for the new LPI classes to require approval to make capital distributions beyond a certain threshold.

Amend Section 32(4)(ba) by inserting “Class IIGB, Collateralised Insurers” after “Class 3A” to make provision for directions to be imposed upon the new LPI classes after a qualified audit opinion under any rules.

IX. APPENDIX II

Amendments to the Insurance Act 1978 and New Rules for Insurance Market place

The following are the proposed amendments to the Act to establish a regulatory framework for insurance market places:

Insert into Section 1(1):

“IMP” means an insurance market place carrying on the business of an insurance market place in an innovative or experimental manner.”

“insurance market place” means a forum or platform established for the purpose of bringing insurance buyers and sellers together to buy and sell insurance coverage via auction or other arrangements, or for trading insurance contracts.”

Amend Section 1(1) by replacing “‘innovative intermediaries’ means a reference to IAs, IBs and IMs” with “‘innovative intermediaries’ means reference to IAs, IBs, IMs and IMPs” to make provision for IMPs to be included within the definition of innovative intermediaries.

Amend Section 2(1) by inserting “insurance market places” after “agents” to provide for insurance market places to be covered by the Act.

Amend Section 6A by replacing “or agent” with “, agent or insurance market place” everywhere “or agent” appears to make provision for the Authority to be able to make rules with respect to insurance market places.

Amend Section 6C by replacing “or agent” with “, agent or insurance market place” everywhere “or agent” appears to make provision for the Authority to be able to modify or exempt from a rule with respect to insurance market places.

Amend Section 8(1) by replacing “and broker” with “, broker and insurance market place” to make provision for insurance market places to be required to have a principal office in Bermuda.

Amend Section 9(1) by inserting “, insurance market place” after “agent” to make it an offence for a person to carry out insurance market place business in or from within Bermuda without being registered.

Amend Section 10(1) by inserting “, insurance market place” after “agent” to make provision for an application process for registration.

Amend Section 11 by inserting “, insurance market place” after “agent” to make provision for criteria for the Authority to consider in determining whether to register an insurance market place.

Amend Section 14 by replacing “or agent” with “, agent or insurance market place” and “agent” with “agent, insurance market place” everywhere these appear to make provision for fees to be applied to insurance market places.

Amend Section 17B by replacing “and agent” with “, agent and insurance market place” everywhere this appears to make provision for insurance market places to file statutory returns.

Amend Section 18A to replace “or agent” with “, agent or insurance market place” and “agent” with “agent, insurance market place” everywhere these appear to provide for a penalty for an insurance market place for failure to file a statutory return.

Repeal Section 28 and replace with:

Section 28(1): “An insurance manager or agent shall maintain an accurate list of all insurers for which he acts as an insurance manager or agent, and shall, if required in writing at any time by the Authority so to do, provide the Authority with a copy of that list.”

Section 28(2): “An insurance market place shall maintain an accurate list of persons authorised to use its insurance market place platform as a buyer or seller of insurance risk, or authorised to transfer insurance exposure, and shall, if required in writing at any time by the Authority so to do, provide the Authority with a copy of that list.”

Amend Section 29 by replacing “agent or” with “, agent, insurance market place or” to make provision for an insurance market place to be deemed an agent of an insurer if it receives a premium under an insurance contract and the insurer deemed to have received the premium.

Amend Section 30 by replacing “or agent” with “, agent or insurance market place” everywhere it appears to make provision for the Authority to appoint a person to investigate an insurance market place.

Amend Section 30CA by replacing “or agent” with “, agent or insurance market place” everywhere it appears to require an insurance market place to notify the Authority of changes in the insurance market place’s shareholder controllers or officers.

Amend Section 30J(5) by replacing “and agents” with “, agents and insurance market places” to make provision for insurance market places to file annually with the Authority a list of every person who has ceased to be an officer or shareholder controller.

Insert after Section 30J(7) the following Section:

Section 30J(8): “For the purposes of this section ‘officer’ in relation to an insurance market place means a director, chief executive or senior executive performing the duties of compliance, information technology, information security, and finance.”

Amend Section 42 by inserting “insurance market place” after “agent” to make provision for the Authority to, or an insurance market place to request, cancellation of a registration.

Amend Section 48(1) by replacing “or agent” with “, agent or insurance market place” to make provision for an insurance market place to become personally liable on a policy of domestic business if it makes arrangements with an unregistered insurer.

Amend Section 49 by replacing “or agent” with “, agent or insurance market place” to require that an insurance market place not publish misleading information.

Amend Paragraph 4(2B) of the Schedule to the Act by replacing “or agent” with “, agent or insurance market place” to require an insurance market place to maintain sufficient indemnity insurance cover to meet the minimum criteria.

Additionally

The BMA proposes to require that insurance market places maintain a compliance function or compliance mechanisms built within its platform to ensure it is not party to a violation of Bermuda law by, for example, permitting foreign insurers to bind contracts in Bermuda, constituting conducting insurance in or from within Bermuda.

The Authority proposes to require insurance market places to report certain events:

- a) Failure to comply with a provision in the Act or fulfil a condition on its license
- b) Fraudulent activity by a director or employee
- c) Material change to its insurance indemnity cover
- d) Cybersecurity event

The BMA proposes to require 30 days pre-notification of material changes regarding insurance market places with the ability of the Authority to object. These changes are:

- a) Material change to the most recent business plan filed with the Authority
- b) Outsourcing of key functions: compliance, information technology and information security

The Authority proposes to recommend consequential amendments to the National Money Laundering Committee that Bermuda’s AML legislation be amended to bring any insurance market place that supports long-term direct insurance contracts within AML scope.

Code of Conduct for Insurance Market place

The Authority proposes to consult on and issue a new Code of Conduct for insurance intermediaries in 2020. Until then, relevant parts of the Insurance Brokers and Agents Code of Conduct will be applied to insurance market places.

X. APPENDIX III

Table 1. Proposed Operational Risk Capital Charge (Collateralised Insurers)

CIRA Score	% Charge against Assets held as Collateral
<=4,000	0.88%
>4,000 <=5,200	0.79%
>5,200 <=6,000	0.66%
>6,000 <=6,650	0.53%
>6,650 <=7,250	0.40%
>7,250 <=7,650	0.31%
>7,650 <=7,850	0.23%
>7,850 <=8,050	0.13%
>8,050 <=8,250	0.09%
>8,250	0.05%

Table 2. Proposed Fees (Collateralised Insurers)

Assets held as Collateral	2019	2020	2021
<=\$150M	\$15,000	\$17,000	\$20,000
>\$150M <=\$350M	\$18,000	\$20,000	\$23,000
>\$350M <=\$2B	\$20,000	\$23,000	\$25,000
>\$2B <=\$5B	\$23,000	\$25,000	\$30,000
>\$5B <=\$10B	\$30,000	\$35,000	\$40,000
>\$10B	\$40,000	\$45,000	\$50,000

Table 3. Proposed Fees (Class IIGB)

Gross Premiums	2019	2020	2021
<=\$5M	\$15,000	\$17,000	\$20,000
>\$5M <=\$20M	\$20,000	\$22,500	\$25,000
>\$20 <=\$35M	\$23,500	\$26,000	\$30,000
>\$35M <=\$100M	\$27,500	\$30,500	\$35,000
>\$100M	\$30,000	\$35,000	\$40,000

Table 4. Proposed Fees (Insurance Market places)

Volume of Transactions	2019	2020	2021
<=50	\$10,000	\$15,000	\$17,000
>50 <=2K	\$15,000	\$17,000	\$20,000
>2K <=5K	\$20,000	\$25,000	\$27,000
>5K <=10K	\$25,000	\$27,000	\$30,000
>10K	\$27,000	\$30,000	\$33,000

XI. APPENDIX IV

Comparison of SPI and Collateralised Insurer Regulatory Frameworks

Attribute	Restricted SPI	Unrestricted SPI	Collateralised Insurers
1. Risk profile	Simple (e.g. Cat bond, sole-cedant is Bermuda Class 4)	Complex SPI (e.g. with own origination and underwriting infrastructure)	Complex but fully funded
2. Volume of Transactions (generally)	Low	Medium to High	Medium to High
3. License conditions	Fully collateralized; Restricted to named cedant and/or affiliates	Fully collateralized; Cedant rated A- or better, other cedants require specific BMA approval	Fully Funded (i.e. reinsurance allowed as contingent capital or collateral)
4. Target policyholders	Known name and closed list	Unknown, open but sophisticated (A- rated by AM Best or equivalent rating agency)	Open – rated and unrated cedants
5. Target market (generally)	Specified (e.g. provide the alternative capital capacity to a Bermuda Class 4 insurer)	Competes directly with traditional reinsurance in property & property cat	Competes directly with traditional reinsurance in all lines
6. Audit	Appetite to waive	Appetite to waive, subject to conditions	No waivers from audit
7. Quality of capital/collateral	Paid in cash & cash equivalents; Letters of credit (LOC) from recognized Financial Institution		Sound combination of paid in and contingent (i.e. LOC and reinsurance as specified in the (re)insurance contract);

		Permanent regulatory capital requirement to reflect operational, and any residual market and credit risks
8. Investment risk	Minimal (cash & cash equivalent)	Similar to regular commercial insurers but the market risk to be retained by cedant or permanent capital must be held
9. Product	<p>Cat bond, industry loss warranty, mortgage, property quota-share (QS);</p> <p>Prospective i.e. no-legacy;</p> <p>No direct business;</p> <p>No clawback</p>	<p>Catastrophe, QS, capped casualty;</p> <p>Retroactive or legacy capped deals;</p> <p>Complex deals e.g. swaps compliant with Section 19 of the Act;</p> <p>Direct insurance and reinsurance;</p> <p>Clawback allowed but specific mechanisms and arrangements must be established demonstrating how claw back will be satisfied if triggered (e.g. hedging).</p>
10. Tail	Short (e.g. property catastrophe) to medium tail (e.g. QS of property portfolio)	Short and long tail from casualty lines
11. Limit Structure (generally)	Fixed or periodically adjusted/calculated limits by reference to a model, formula, etc. but a limit must be contractually clear and determinable at any point	Various mechanisms as long as contractually clear and determinable at any given point

12. Permanent Regulatory Capital	Not applicable	Yes, Permanent Regulatory Capital for Operational, Market and Reinsurance Credit risks.
13. Limited Recourse	Yes, but cannot be relied upon as an 'alternative' to holding assets or reinsurance (if Collateralised Insurer) to the aggregate limit stated in the (re)insurance contract.	
14. Long-term and General Business	Yes, similar to SPIs, Collateralised Insurer may conduct long term (i.e. life) and general business, but cannot write both (long term and general business) in the same entity. A separate entity is needed for each business.	

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