



24 July 2019

Dear Stakeholders,

Re: Consultation Paper: New Legislative Framework for Fund Administrators

The Bermuda Monetary Authority (the Authority) would like to thank stakeholders for their continued engagement as the Authority enhances its regulatory framework for fund administrators. The Authority appreciates the feedback received and is committed to ensuring Bermuda's regulatory regime is effective and aligned with evolving international standards.

On 24 April 2019, the Authority issued a Consultation Paper (the Paper) which proposed a new regulatory and supervisory regime for fund administrators. The Paper was accompanied by a draft Bill entitled the "Fund Administration Provider Business Act 2019".

By way of the Paper and draft Bill, the Authority sought feedback on proposals to enhance the existing legislative framework for fund administrators as set out within Part III of the Investment Funds Act 2006.

RESPONSE TO INDUSTRY FEEDBACK

The Authority notes it received limited formal feedback on the Paper and draft Bill during the consultation process. There are indications this was because feedback had already been solicited via a Discussion Paper issued in 2018, and that the proposals in the Discussion Paper remained largely unchanged in the Paper and draft Bill.

A key proposal within the Paper was that the Authority's regulation and supervision of the fund administration businesses be accomplished via a legislative framework which is distinct from the one used to facilitate oversight of investment fund products. No dissenting views were received in respect of this proposal. As such, the Authority now confirms it will introduce a sector-specific regime that will provide greater clarity and consistency in respect of how the Authority regulates and supervises Bermuda's fund administrators.

In response to feedback received during the consultation process, the Authority wishes to clarify that the rationale for including a "safe-guarding of other assets" provision in the draft Bill was to enable a fund administrator, under appropriate circumstances, to make an application for approval to safeguard and hold such assets, which do not include financial instruments or client monies. This would be distinct from the process of verifying ownership of other assets held by other parties, or the title documents held by other parties.

Accordingly, the wording “safe-keeping of other assets” is to be replaced by the wording “safeguarding of other assets” in the Fund Administration Provider Business Act 2019 (as the term “safeguarding” is already used in the Investment Business Act 2003).

The Authority thanks stakeholders for their feedback, and remains committed to working with industry and other interested parties to ensure results achieved are in the best interests of the Bermuda market. Any stakeholder who needs further clarification or additional information on any issue should contact the Authority directly at policy@bma.bm.