



# **BERMUDA MONETARY AUTHORITY**

## **CONSULTATION PAPER**

### **PROPOSED FEE CHANGES**

**OCTOBER 2019**

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*The financial services industry and other interested parties are invited to submit their views on the proposals set out in this paper. Comments should be sent to the Authority and addressed to [policy@bma.bm](mailto:policy@bma.bm) no later than **8 November 2019**.*

## **I. INTRODUCTION**

1. The purpose of this consultation paper is to set out fee revisions which the Bermuda Monetary Authority (the Authority) proposes to be implemented effective 1 January 2020. The proposed fees fall into the following categories:
  - A. Introduction of a new fee structure for the Corporate Service Provider (CSP) business sector, for which fees were not revised in 2019
  - B. Introduction of select new or revised fees within certain regulated sectors required as a result of recent legislative changes
  - C. Introduction of new innovation hub-related fees
  - D. Correction of fees currently misstated in, or omitted from, the Fourth Schedule of the Bermuda Monetary Authority Act 1969 (the Fourth Schedule)

## **II. BACKGROUND**

2. In 2018, the Authority undertook a comprehensive fee revision process, which involved consultation with all industry sectors. In its consultation paper published on 22 August 2018 (the 2018 CP), the Authority explained the rationale behind the wide-ranging changes proposed to both the fees payable and, in a number of sectors, the basis for calculating such fees. For ease of reference, the 2018 CP can be viewed via the following link: <https://www.bma.bm/viewPDF/documents/2019-06-07-14-06-21-Consultation-Paper---Proposed-Fees-for-2019-and-2020.pdf>
3. The Authority revised a number of its initial proposals based on further engagement with affected parties, including stakeholder feedback provided in response to the 2018 CP. Notably, it was decided that any fee increases would be phased-in over a three-year period commencing in January 2019 (rather than the initially proposed two-year period). In addition, it was agreed that no changes would be made in 2019 to the fees payable by licenced CSPs, thereby permitting a revised fee structure to be introduced in 2020.
4. Consistent with the above, the most significant element of the changes proposed within this paper, is the new fee structure recommended for licenced CSPs. Furthermore, stakeholders will note where changes have been recommended, except in certain cases relating to the correcting of fees, which are currently misstated or omitted from the Fourth Schedule, fees are proposed for both 2020 and 2021. This approach is to ensure alignment with the fees approved by the Legislature last year, which covered 2019, 2020 and 2021, respectively.

### **III. PROPOSED FEE REVISIONS**

#### **A. CSP Business Sector**

5. The 2018 CP identified that human and financial resource levels within the Authority were below expected levels, both in comparison to peer jurisdictions and given the organisations continually expanding mandate.
6. Noting the unsustainability of such a situation, the 2018 CP presented the need for the Authority to collect additional fee revenue. It further noted that the proposed fee increases had been developed with certain key principles in mind, including:
  - a. Fees charged within respective licenced sectors, and to entities within those sectors, should be aligned with the resources and costs associated with the Authority’s ongoing supervisory activities related to that sector
  - b. The basis for charging fees should be simple, enabling entities to easily determine what fees they were due to pay
  - c. The fees proposed for the various regulated sectors should not jeopardise the sustainability and continued credibility of the respective sectors
7. The fee structure proposed for CSPs was developed to be mindful of the above-referenced principles. At present, all licenced CSPs pay an annual fee of \$21 per entity served, with this amount not having changed since the introduction of the regime. In the 2018 CP, a flat annual fee of \$10,000 was proposed for all limited licencees, with a corresponding flat annual fee of \$25,000 for all unlimited licencees. Under the fee structure now proposed by the Authority, which is set out in Annex 1, the annual fees payable by both limited and unlimited licencees will be determined by the fee-band within which they fall, with the respective bands correlated to the number of companies served. Accordingly, a key aspect underpinning this proposal is its adherence to the principle of proportionality.
8. At present, the application fee payable by entities seeking to be licenced as either limited or unlimited CSPs is undifferentiated, with a fee of \$206 payable by all applicants. Under the new approach proposed by the Authority, the application fee would be determined by the type of licence being sought, with a fee of \$2,540 proposed for a limited licence application and a fee of \$5,000 for an unlimited licence application. Given the critical “gatekeeper” role performed by CSPs, the newly proposed fees reflect the considerable time and effort which must be committed to reviewing licensing applications by not only the Authority’s CSP supervisory team but also its Anti-Money Laundering/Anti-Terrorist Financing (AML/ATF) team.

#### **B. Select New or Revised Fees**

9. As a result of recent legislative changes, new regulatory regimes have been introduced and

existing regimes were modified. Accordingly, a number of fee implications were introduced for these new or revised legislative provisions. In most instances, the necessary adjustments to fees presented within the Fourth Schedule have been effected via consequential amendments contained within the respective piece of legislation. There are other cases, however, where further action is required to achieve adjustments in respect of the introduced fees or to ensure that the new or revised fee provisions are properly reflected in the Fourth Schedule.

10. One such case relates to the Investment Funds Act 2006 (the IFA), which has been subject to amendments twice within the last year. While some of the resultant new or revised fee-related provisions have already been addressed, Annex 2 sets out the changes to the Fourth Schedule required in respect of the following items:

- Private Funds – These funds were previously categorised as “Excluded Funds” within the IFA and accordingly were not subject to initial filing fees or annual fees; as such, new filing and annual fees must now be introduced for Private Funds, a class of Registered Fund, to match those already in place for other Registered Funds (i.e. Professional Class A and Professional Class B Funds)
- Applications for approval of a director or service provider for a Professional Class B Fund – Section 8A(8) of the IFA requires an operator to make application to the Authority for approval of such appointments but no fee is prescribed; it is proposed that the fee be the same as applications made pursuant to section 25 (i.e. \$290 in 2020)
- Late filing fee/penalty – A fee of \$50 per month already exists in respect of statements submitted pursuant to section 26(1)(b) of the IFA but as a result of recently introduced requirements, or those due to come into force imminently, similar fees needs to be introduced in respect of filings required pursuant to sections 6(3D), 6B(2) and 8C(2).

11. In a similar vein, amendments are required in respect of fee-related provisions contained within the Insurance Amendment Act 2019. Specifically, as Annex 2 reflects, previously published registration fees and annual fees for Insurance Market Places for 2020 and 2021 are to be reduced.

### **C. Innovation Hub-Related Fees**

12. The Authority is committed to playing an appropriate role in the development and introduction of innovative solutions in the financial services sector. While the initial focus has been on the activities within insurance and digital asset business sectors, a non-sector-specific approach is required to properly position the Authority to provide regulatory guidance and support to entities pursuing innovative developments relevant to the entire financial services sector.

13. A key element of the Authority’s activities in this regard will be delivered via an innovation hub structure. Within the hub, the Authority will engage in constructive, sometimes intensive, dialogue with a range of different entity-types. The entities with whom such engagement may occur is expected to range from those intending to be licenced as insurers or digital asset

businesses, to those whose products are not yet sufficiently developed to facilitate live testing. This includes entities conducting activities which are not subject to regulation but which are directly relevant to potential innovations within the financial services sector.

14. Given the above, the Authority is proposing to introduce a general provision within the Bermuda Monetary Authority Act 1969 for the Authority to “create and administer” an innovation hub. To support this important step, a provision is to be made for a fee to be charged for entry into and use of information provided within the hub. The application and renewal fees proposed in this context are set out in Annex 3.

#### **D. Correction of Misstatements or Omissions**

15. As noted previously, the fee revision process undertaken in 2018 was extremely comprehensive, addressing virtually all fees in all regulated sectors and covering a three-year period. A regrettable consequence of the extensive nature of the changes proposed and consulted upon was that, as a result of administrative errors, a small number of fees were misstated in, or omitted from, the Fourth Schedule. The necessary technical amendments to correct the relevant provisions will be included within the fees-related Bill to be presented to the Legislature prior to year-end

#### **IV. Conclusion**

16. The Authority’s proposed new fee structure for the CSP business sector, and the other new and revised fees proposed in this paper, strike a balance between its need for additional financial resources to support a sustainable business model and the ability of regulated firms to absorb the fees. In all cases, the proposed fees reflect the costs of supervision faced by the Authority and the benefits derived by Bermuda-based financial institutions from the Authority having an internationally recognised and credible regulatory regime.
17. Stakeholders who have comments on the proposals set out in this paper are kindly requested to send them in writing using the Summary Sheet for Consultation Comments provided to [policy@bma.bm](mailto:policy@bma.bm) no later than **8 November 2019**.

**Annex 1 – Proposed Fees for the Corporate Service Provider Sector**

**Corporate Service Provider Business Act 2012**

(1) Application fee for a licence under section 10(2)(e) where the application is in respect of –

- (a) a limited licence ..... \$2,540  
 (b) an unlimited licence ..... \$5,000

(2) Annual fee under section 13 where the licensed company services entities as at 31 December of the preceding year -

		Part B - 2020	Part C - 2021
	(a) For a limited licence		
	(i) Where a licenced company services 0-200 entities	\$2,500	\$3,000
	(ii) Where a licenced company services 201-400 entities	\$4,000	\$4,800
	(iii) Where a licenced company services 401-600 entities	\$6,000	\$7,200
	(iv) Where a licenced company services 601-800 entities	\$12,000	\$14,400
	(v) Where a licenced company services 801-1,000 entities	\$24,000	\$28,800
	(vi) Where a licenced company services 1,001-2,000 entities	\$50,000	\$60,000
	(vii) Where a licenced company services 2,001-3,000 entities	\$75,000	\$90,000
	(viii) Where a licenced company services 3,001 or more entities	\$100,000	\$120,000
	(b) For an unlimited licence		
	(i) Where a licenced company services 0-1,000 entities	\$155,000	\$186,000
	(ii) Where a licenced company services 1,001-2,000 entities	\$160,000	\$192,000
	(iii) Where a licenced company services 2,001-3,000 entities	\$165,000	\$198,000
	(iv) Where a licenced company services 3,001-4,000 entities	\$170,000	\$204,000
	(v) Where a licenced company services 4,000 or more entities	\$175,000	\$210,000

**Annex 2 – Select New or Revised Fees**

A. The Bermuda Monetary Authority Act 1969 is amended in the Fourth Schedule as shown below in Parts B and C under the heading Investment Funds Act 2006:

Investment Funds Act 2006			
		Part B - 2020	Part C - 2021
7B	Initial filing fee pursuant to section 17(1)(ba) in relation to Private Fund	\$1,160	\$1,250
9B	Annual fee pursuant to section 17(1)(c) in relation to Private Fund	\$1,160	\$1,250
12	Transaction fee: all sections 8A (8) and 25 changes and notifications and section 6 notifications	\$290	\$310
15	Late filing fee/penalty in respect of a statement submitted pursuant to sections 6(3D), 6B(2), 8C (2) 26(1)(b) more than six months after a fund's financial year-end	\$50 per month	\$50 per month

B. The Bermuda Monetary Authority Act 1969 is amended in the Fourth Schedule in Parts B and C under the heading Insurance Act 1978 by replacing the existing fees with the fees shown below:

	2020 (Part B)	2021 (Part C)
For Paragraph 3(e) (Registration)		
Below \$5m	\$3,000	\$4,500
\$5m - \$20m	\$4,500	\$6,000
\$20m - \$35m	\$6,000	\$7,500
\$35m - \$100m	\$7,500	\$9,000
Greater than \$100m	\$9,000	\$11,500
For Paragraph 7(f) (Annual)		
Below \$5m	\$3,000	\$4,500
\$5m - \$20m	\$4,500	\$6,000
\$20m - \$35m	\$6,000	\$7,500
\$35m - \$100m	\$7,500	\$9,000
Greater than \$100m	\$9,000	\$11,500

**Annex 3 Innovation Hub Related Fees**

The Bermuda Monetary Authority Act 1969 is amended in the Fourth Schedule as shown below in Parts B and C under the heading:

Bermuda Monetary Authority Act 1969

Bermuda Monetary Authority Act 1969				
			Part B	Part C
			2020	2021
Proposed New Section 20 AB(2)	(a)	Initial innovation hub fee	\$3,000	\$3,000
	(b)	Extension fee (valid for 3 months)	\$750	\$750