



MOVING FORWARD TOGETHER!

Series 5: Breaking New Ground

Breaking New Ground

The Bermuda Monetary Authority's (BMA) 50th Anniversary has come to a close. With this fifth and final article, we highlight the most recent decade of the Authority's incredible impact on Bermuda's financial landscape. We hope you have enjoyed this series of retrospective articles, which serve as both a reflection of our enduring service and a testament to our preparedness for the future as we continue moving forward together, as a community and an industry.

One of the Bermuda Monetary Authority's (BMA) guiding principles has always been to create a secure and stable financial environment in Bermuda, whilst ensuring that Bermuda remains an attractive domicile from which to conduct local and international business. Over the past 50 years, the BMA has met the changing needs of the financial services sector on a local and global scale. It would be an understatement to say that the past five decades have been interesting, but one principle has held true: change is constant. A few recurring indicators of the BMA's stable influence over the past five decades are: the Authority's ability to adapt to ever-changing needs; its steadfast application of exemplary standards and consistent regulation; and the organisation's perpetual motion which identifies avenues of regulatory best practices beneficial to the Bermuda market and elsewhere.

2010 – 2019

A Regulatory Leader

As the world slowly climbed out of the wake of the global financial crisis, the BMA's work became more complicated. International standards for all financial services sectors were evolving at a high speed. The BMA aligned its regime to these standards by making progressive enhancements to its regulatory frameworks, ensuring a more consistent and efficient supervisory regime.

One of the most involved and essential journeys for the BMA in the earlier part of the last decade was the road to Solvency II equivalency. Over a period of six years and with the expertise of a dedicated core team, Bermuda's enhanced commercial insurance regime reached full equivalency on 24 March 2016.

Solvency II, a directive of the European Union (EU), allowed for a single set of rules for insurance services to guarantee a company's assets provide for long-term financial stability. Solvency II's overall objective is to protect (re)insurers' policyholders and provide for a stable financial system overall. As many of Bermuda's commercial insurers conduct a significant amount of business in the EU, Solvency II equivalency meant they would not be disadvantaged when doing business in Europe.

Bermuda is one of only two non-EU jurisdictions that have achieved full equivalency. This speaks volumes not only to the expertise within the BMA, but also the calibre of businesses operating in Bermuda. This evolution of meeting international standards, alongside the development of a transparent and relevant regulatory authority, has allowed business to thrive in Bermuda.

The BMA's objective of increased international equivalence extended beyond the EU, though. Over the last decade, the Authority successfully met regulatory standards in the US. Bermuda was approved as a Qualified Jurisdiction by the National Association of Insurance Commissioners (NAIC) in 2014, providing Bermuda's (re)insurers with reduced collateral requirements. In 2019, Bermuda was approved by the NAIC as a Reciprocal Jurisdiction further reducing collateral requirements to zero. These successful equivalence exercises allow Bermuda's (re)insurers to operate on a level playing field with their counterparts in other jurisdictions.

Achieving international standards in this past decade was not limited to the realm of insurance. The Authority implemented, over a phased period commencing 1 January 2015, the international standard for the regulation of the banking sector—Basel III. This phased-in approach saw the introduction of the Basel III capital adequacy and liquidity reporting standards and the discontinuance of the prior Basel II obligations. Over subsequent years, the BMA successfully phased in the various Basel III requirements, reaching full implementation on 1 January 2019. This four-year-long effort has positioned Bermuda as a leader amongst its peer jurisdictions in ushering in the global standard for the regulation, supervision and risk management for banks.

Mr. Jeremy Cox, the BMA's Executive Chair, says, "The role of the Bermuda regulator has become increasingly important as businesses look to broaden the scope of their global operations. One important consideration for any business is the benefit of being domiciled in a jurisdiction where the regulator is respected and trusted by the global regulatory community. We always talk about punching above our weight, but the fact that we managed to implement Basel

III, achieve full Solvency II equivalency and earn the Reciprocal Jurisdiction status, speaks to that. At the same time, this organisation has to manage the expectations of many different stakeholder groups, the most important being the customers of Bermuda regulated institutions."



Mr. Jeremy Cox, BMA Executive Chair

Cooperation with Overseas Counterparts

The signing of Memoranda of Understanding (MOU) with other regulatory bodies is another way in which the BMA continues to foster cooperative and effective supervisory relationships with overseas counterparts. By 2010, the BMA had signed 16 MOUs and was one of only three authorities approved as a signatory for the International Association of Insurance Supervisors' Multilateral Memorandum of Understanding (IAIS MMoU), a formal basis for cooperation and exchange between signatory regulators who supervise insurers with cross-border operations.

Mr. William Kattan, who worked as Director of the Legal and Enforcement Department and General Counsel at the BMA from 2005–2012, says, "The BMA was able to achieve this because it ensured legislation was in place to enable it to comply with the requirements for admission as a signatory to the MMoU. Because of this, Bermuda was ahead of many other jurisdictions that lacked the necessary legislation."



Mr. William Kattan, BMA's Legal and Enforcement Director and General Counsel from 2005–2012

Combating Bad Business

While the BMA's work on the Anti-Money Laundering/Anti-Terrorist Financing (AML/ATF) front had been underway for many years, it was apparent by the beginning of the last decade that a more forceful approach was required. Mr. Mansfield Brock, former BMA Chair, recalls, "We made it clear to all that laundering money had no place in Bermuda. We spent a lot of time and energy to maintain Bermuda's position in this regard, and worked with the authorities globally to crack financial cases and sting operations on people making ill-gotten gains on illegal money."

Because of the continuing complexity of AML/ATF initiatives worldwide, it was important the BMA upgrade its legislative framework. Ms. Cheryl-Ann Lister, former BMA CEO and Chair, says, "While things were being done in this area they did not quite have the force of law behind them. There was guidance in place, but that does not get you points without the law behind it." After stepping down from her role at the BMA in 2006, Ms. Lister went on to chair the National Anti-Money Laundering Committee (NAMLC), which advises Government on matters regarding AML/ATF.

As the BMA began to expand its powers under Bermuda's enhanced AML/ATF legislative regime, it also had to develop the organisation's resources in this area. This required the establishment of a unit dealing with AML/ATF compliance, and Mr. Kattan was responsible for drafting the legislation requiring financial institutions to establish policies and procedures to detect and prevent money laundering and terrorist financing.

He adds, "Procedures were also established within the Authority to take enforcement action against institutions that

failed to comply with the legislation. The BMA established internal procedures concerning the taking of enforcement action that led to the imposition of financial penalties. This legislation was the first of its kind. [Before that] the imposition of penalties for breaches of the law had been a matter for the courts and not public authorities." While Mr. Kattan says the move to give the BMA these enforcement responsibilities was somewhat controversial, the supportive argument prevailed and the legislation was passed.

By 2016, the BMA was responsible for supervising over 1,320 firms for AML/ATF purposes. Today, for the Authority to keep up with strengthened international standards, the organisation continues to enhance and refine Bermuda's AML/ATF legislative framework. "Regulation is becoming an even more significant component for countries, and AML/ATF requirements are becoming so complex, and that has to be a main area of focus," says Ms. Lister. "The BMA has to continue to move with the times and continue to implement and upgrade their supervisory framework."

One of the areas in which Bermuda had always been diligent and would come into the spotlight during this past decade was beneficial ownership – the ultimate owner of a company – and updates necessary to bring legislation in line with international requirements. Former Minister of Finance, Mr. Bob Richards, says, "Bermuda was unique in that we have had records of who owned exempt companies. Fast forward to today, this is now called a Register of Beneficial Ownership. The first time I went over to the UK as the Minister, the talk was about wanting to start a register and that they wanted us to do so as well. When I told them we have had one for 70 years, they were astounded."

Following a 2016 agreement between the British and Bermuda governments, the BMA agreed to streamline the process by creating an electronic platform for the revamped register. Enhancements to the regime were proposed in 2017, and enacted in early 2018, to ensure that an updated and accessible register be maintained by all companies formed in Bermuda, as well as filed with the BMA. The intent is that the new legislation will help in continuing to detect any severe financial crimes, enhancing Bermuda's appeal as a jurisdiction of choice for conducting business.

A significant component of the broader role of ensuring Bermuda incorporates quality businesses on the island is Know Your Customer (KYC), which has played a large role in establishing Bermuda as a global financial market leader.

Mr. Cox says, "Part of what Bermuda has always prided itself on is knowing its customer and this organisation has been the one, long before my time, vetting new beneficial owners and making sure those beneficial owners are credible. We have been very selective, we want companies of high quality, and that has helped us to maintain this reputation for doing things right and having the right participants operating in our jurisdiction compared to our peer jurisdictions."

Moving Forward Together

Due to the Authority's commitment to consistent standards and regulations, Bermuda has seen growth in many areas and recognised opportunities for development in future technologies. While the BMA takes a risk-based approach to conducting its supervisory framework, it has always made sure that its standards are appropriate for Bermuda's financial markets, thus enabling future growth. This was evident earlier in the decade within the insurance industry with Bermuda becoming the centre for Special Purpose Insurer (SPI) and Insurance-Linked Securities (ILS) businesses.

Even as businesses change – whether through growth, transformation, mergers or acquisitions – the BMA's work in creating a sound financial environment and making Bermuda an attractive place to do business remains crucial.



BMA Executives 2019. (from left to right) Craig Swan, Marcia Woolridge-Allwood, George Pickering, Jeremy Cox, Shanna Lespere, Shauna MacKenzie