



BERMUDA MONETARY AUTHORITY

CONSULTATION PAPER

Amendments to Bermuda Monetary Authority Act 1969 and Fourth Schedule

17 September 2021

Stakeholders will be aware that in late 2018 the Bermuda Monetary Authority (Authority or BMA) proposed, and the Legislature approved, a graduated fee structure programme encompassing fees payable to the Authority for the calendar years 2019, 2020 and 2021.

Now that this multi-year, phased fee adjustment process has been completed, the Authority conducted a review of the Fourth Schedule of the Bermuda Monetary Authority Act 1969 (Act) to ensure ongoing accuracy and comprehensiveness of its fee structure. Emerging from this review, some minor adjustments need to be made to the Act itself and under various headings in the Fourth Schedule (including the Corporate Service Provider Business Act 2012, the Insurance Act 1978 and the Investment Funds Act 2006).

The Authority's experience with operating the Innovation Hub facility, provided for by section 20F of the Act, has revealed that it would be appropriate for the extension period set out in section 20G and 20H of the Act to be revised from the existing three months to "up to 12 months" to better support the development of viable new products or services. The fee payable in respect of the extension period is to be adjusted accordingly.

Under the Fourth Schedule heading of the Corporate Service Provider Business Act 2012, the Authority has sought to remedy an error in the annual fees payable in 2021 by entities falling within the two largest client base categories. Unfortunately, the previously consulted and agreed upon fees for such entities were not correctly carried forward to the final year of the three-year phased fee structure in 2021, and this situation has now been addressed.

Similarly, under the heading of the Investment Funds Act 2006, the late filing fees for both Overseas Funds and Closed-Ended Funds, intended to encourage timely filing to the Authority by the operators of such structures, were inadvertently omitted in the graduated fee structure under the Act. Accordingly, the Authority seeks to include the applicable and now progressive fees in the upcoming year. In tandem, a consequential amendment will be made to section 17 of the Investment Funds Act 2006 (the Fee section) to make provision for the implementation of these fees.

Under the heading Insurance Act 1978, in addition to addressing other minor anomalies in the fee structure, the Authority has sought to clarify the Note requirement for insurance entities required to make more than one filing which is seeking an extension to their submission deadline, establishing that only one fee is payable to the Authority in such instances.

The accompanying Annex I presents the proposed amendments to the Act and those elements of the Fourth Schedule to which adjustments have been made.

The Authority intends to seek approval from the Legislature for these realignments to be made with effect from 31 December 2021.

The Authority invites stakeholders to submit their feedback on the proposals in this consultation paper and the attached Annex I illustrative draft.

Industry and other stakeholders are invited to submit any comments they have in respect of the proposed amendments set out in this paper to policy@bma.bm no later than the close of business on **11 October 2021**.

BERMUDA

**BERMUDA MONETARY AUTHORITY
AMENDMENT (No.2) ACT 2021**

BR / 2021

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WHEREAS it is expedient to amend the Bermuda Monetary Authority Act 1969 and the Fourth Schedule to the Bermuda Monetary Authority Act 1969 to clarify the obligation of certain fees payable by persons authorised or proposed to be authorised under the same and by persons licensed, registered or designated under the Corporate Service Provider Business Act 2012, Insurance Act 1978 and the Investment Funds Act 2006.

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 Bermuda Monetary Authority Act 1969 (the “principal Act”), may be cited as the Bermuda Monetary Authority Amendment No. 2 Act 2021.

Amends Section 20G

2. The principal Act is amended in section 20G as follows—
- (a) in paragraph (2)(b) by deleting “not exceeding three months” and substituting the words “not exceeding twelve months”;
 - (b) in paragraph (3)(b) by deleting “additional 3 month periods” and substituting the words “up to twelve months”.

Amends Section 20H

3. The principal Act is amended in section 20H(b) by deleting “three months” and substituting the words “up to twelve months”.

Amends Third Schedule

4. The Third Schedule to the principal Act is amended by deleting the words “Collective Investment Scheme” under the heading “Financial Institutions”.

Amends Fourth Schedule

5. The Fourth Schedule to the Bermuda Monetary Authority Act 1969 (the “principal Act”) is amended—

- (a) by deleting reference to “2021” in the title to PART C;
- (b) under the heading “**Bermuda Monetary Authority Act 1969 – Innovation Hub**” by revoking and replacing subparagraphs (1) and (2) as follows—

Bermuda Monetary Authority Act 1969 - Innovation Hub		
1	Application fee under section 20H(a)	\$3,000
2	Extension fee under section 20H(b)	\$1,500

- (c) under the heading “**Corporate Service Provider Business Act 2012**” in paragraph 2 (a) by revoking and replacing subparagraphs (vii) and (viii) as follows—

2	The annual fee under section 13 for a corporate service provider as of 31 December of the preceding year services—		
	(a)	for a limited licence—	
		(vii) more than 2000 entities but not more than 3000	\$90,000
		(viii) more than 3000 entities	\$120,000

- (d) under the heading “**Insurance Act 1978**” in—
 (i) paragraph 1 by revoking and replacing subparagraph (a) as follows—

1	(a)	an insurer or innovative insurer under section 4(1)	\$800
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- (ii) paragraph 2 by revoking and replacing subparagraphs (c), (c)(i), (c)(iii), (x), (z) and (ac), as follows—

	(c)	to be granted an extension to the filing deadline under section 17(4) for:	
		Note: Where the deadline for more than one filing is extended pursuant to Section 17(4) under paragraph (c), or Section 6(c) under paragraphs (x) and (z), only one extension fee is payable.	
	(c)(i)	Class IIGB, 3A, C and D insurers	
	(c)(iii)	Class 1, 2, 3, A, B insurers, and Special Purpose Insurers:	

	(x)	Application for BSCR filing extensions, under section 6C made by--	
		Note: Where the deadline for more than one filing is extended pursuant to Section 17(4) under paragraph (c), or Section 6(c) under paragraphs (x) and (z), only one extension fee is payable.	
	(z)	Application for CISSA, GAAP or Financial Condition Report extensions under section 6C made by—	
		Class 3A, C and D insurers:	
		Note: Where the deadline for more than one filing is extended pursuant to Section 17(4) under paragraph (c) or Section 6(c) under paragraphs (x) and (z), only one extension fee is payable.	
	(ac)	Application to modify LRSO for Class IIGB, Class 3A, 3B, 4 under section (6C).	\$1,000

(iii) paragraph 2 by inserting after sub-paragraph (m) as follows—

	(ma)	application for cancellation of registration under section 42(1)(a)	\$500
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(iv) paragraph 3 by revoking and replacing sub-paragraph (c) as follows—

3	(c)	an insurance broker, agent, insurance marketplace provider, or innovative intermediary under section 10	\$3,000
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(v) by revoking paragraphs 7 (a) (xii) and 7 (a) (xiii).

(e) under the heading “**Investment Funds Act**” by revoking and replacing paragraph 13 as follows—

13		Late filing fee pursuant to section 17(8) in respect of a certification or statement which has not been submitted to the Authority within the requisite filing period.	\$50 per month for every month
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		after the date of filing under the relevant sections.
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Consequential amendment

6 Schedule 1 which amends the Investment Funds Act 2006 has effect.

Commencement

7 This Act shall come into operation on 31 December 2021.

SCHEDULE 1

(Section 19)

AMENDMENTS TO THE INVESTMENT FUNDS ACT 2006

The Investment Funds Act 2006 is amended by section 17 by inserting the following new paragraph after paragraph (7) —

“(8) Where the operator of a fund fails to comply with the certification and statement requirements imposed on it as the case may be, under sections 5B(1), 6(3D), 6B(2), 8A(6), 8C(2) and 26(1)(b) it shall be liable to pay a fee for every month (whether in whole or part of the month) such certification or statement has not been submitted to the Authority, in accordance with the Fourth Schedule to the Bermuda Monetary Act 1969.”