



BERMUDA MONETARY AUTHORITY

**CONSULTATION PAPER**

PROPOSED RECOVERY PLANNING RULES FOR BERMUDA  
COMMERCIAL INSURANCE SECTOR

May 2023

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## 1. INTRODUCTION

- 1.1. Following the proposed amendment of section 6A (1) of the Insurance Act 1978, which gives the Bermuda Monetary Authority's (Authority or BMA) powers to make rules for recovery planning, this Consultation Paper (CP) sets out proposed 'Rules' to regulate 'recovery planning' for the Bermuda commercial insurance sector.
- 1.2. In June 2022, the Authority issued a CP<sup>1</sup> that proposed the introduction of a recovery planning regime for the insurance sector. That CP (which can be found [here](#)) provided detailed background information and the rationale for introducing a recovery planning regime.
- 1.3. The proposed 'Rules' set in this paper take into consideration the feedback received from stakeholders<sup>2</sup> in an effort to ensure that the Bermuda supervisory regime is effective, proportionate and aligned with international standards.
- 1.4. The Authority considers the imposition of recovery planning 'Rules' (which are applicable to Bermuda commercial insurers<sup>3</sup> only) as essential pillars in strengthening the Authority's prudential framework.

## 2. Proposed recovery planning rules

- 2.1. As noted in the initial CP that proposed this regime, recovery planning is an additional tool available to prudential supervisors and aimed at ensuring that insurers prepare for a range of possible adverse situations ahead of any severe stress condition. Ultimately, this should assist insurers in taking effective and thoughtful measures in a timely manner in crisis situations without unnecessary pressure.
- 2.2. In addition, a recovery plan should be integrated within the insurer's overall Enterprise Risk Management (ERM) framework and should be pre-emptive in nature. The intent is for

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<sup>1</sup> <https://www.bma.bm/viewPDF/documents/2022-06-06-09-48-57-Consultation-Paper---Recovery-Planning-Regulations-Insurance-Sector.pdf>

<sup>2</sup> <https://www.bma.bm/viewPDF/documents/2022-10-14-10-18-13-Stakeholders-Letter---Consultation-Paper---Recovery-Planning.pdf>

<sup>3</sup> Commercial insurer includes an insurer registered, under section 4 of the Bermuda Insurance Act 1978, as Class 3A, Class 3B, Class 4, Class C, Class D, Class E and insurance groups.

recovery planning to complement other ERM tools already available to insurers, such as the Commercial Insurer's Solvency Self-Assessment (CISSA).

2.3. Notably, the Authority recognises that the objectives of some of the insurer's existing ERM tools, to a certain extent, may overlap with the objectives of the recovery planning<sup>4</sup>. In such cases, the insurer may leverage and should ensure alignment with existing tools within its ERM framework. Therefore, to ensure efficient use of resources, the insurer may use the existing tools within its ERM framework as a source of input when drafting and developing the recovery plan.

2.4. A recovery plan is also a critical supervisory tool that can allow the Authority to identify and assess an insurer's options to recover financial strength and viability under severe stress. Consequently, the Authority will have appropriate powers to evaluate and challenge the insurer's recovery plan's robustness and soundness (e.g., credibility, depth, strength, governance). In addition, the Authority will have appropriate powers to require an insurer to take action for recovery if the insurer comes under severe stress, consistent with the principle that the insurer should monitor, escalate and activate the appropriate range of responses for an emerging stress event. Thus, specifically, the Authority is proposing, in furtherance of its role to supervise and monitor insurers, to:

- i. Require any insurer to prepare, maintain up-to-date and submit to the Authority a recovery plan;
- ii. Request as appropriate for an insurer to execute its recovery plan; and
- iii. Direct the insurer to address any deficiencies within the recovery plan.

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<sup>4</sup> For example, CISSA requires insurers to perform an assessment of their own risk and solvency requirements over their planning horizon. When carrying out such an assessment, insurers are required to take into consideration all reasonably foreseeable material risks arising from both on and off-balance sheet exposures of its business/operations. This must include appropriate stress and scenario testing measures to determine the insurer's ability to manage its business with appropriate levels of capital under conditions of severe but plausible stress and contingency plans to restore capital to adequate levels after an adverse event. On the other hand, a recovery plan specifically focuses on severe stress scenarios that may ultimately threaten the viability of the insurer and, critically, identifies in advance options to restore the financial position and viability of the insurer if such threats materialise.

### 3. Scope and proportionality

- 3.1. At its discretion, the Authority shall require insurers to take recovery planning measures (i.e., evaluating specific risks and options in possible recovery scenarios) as necessary without implementing a formal plan. Alternatively, in some instances, particularly for insurers considered to be of economic importance or whose failure could threaten Bermuda’s financial stability, the Authority may require such insurers to prepare a formal recovery plan.
- 3.2. In assessing if an insurer is of economic importance or if its failure could pose a threat to the financial stability of Bermuda and therefore required to have a recovery plan, the Authority will, among other things, take into consideration the class of registration, size or market share, external and internal interconnectedness, complexity, business model, risk profile, substitutability and cross-border activities of the insurer.
- 3.3. Specifically, the Authority will use the following criteria as a guide for determining which insurers will be required to have a recovery plan in place subject to appropriate proportionality and risk analysis:
- (a) A designated internationally active insurance group for which the Authority is the group-wide supervisor;
  - (b) Insurance group as defined in the Insurance Act 1978, and where the Authority is designated as the group-wide supervisor;
  - (c) An insurer carrying on domestic business as such term is defined in the Insurance Act 1978<sup>5</sup>;
  - (d) An insurer on a three-year rolling average that has:
    - i. Total assets of at least \$10 billion; or
    - ii. Total gross written premiums of at least \$5 billion; and

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<sup>5</sup> A ‘domestic insurer’ is defined as “insurance business where, whether the contract of insurance is made in Bermuda or elsewhere, the subject-matter of the contract is either—

- a) Property that at the time of the making of the contract is in, or in transit to or from Bermuda; or
- b) The life, safety, fidelity or insurable interest of an individual who at the time of the making of the contract is ordinarily resident in Bermuda; or
- c) A risk of a company formed in Bermuda that is not an exempted company within the definition of that expression in section 127 of the Companies Act 1981’

This excludes all exempted companies as defined under section 127 of the Bermuda Companies Act 1981.

(e) A commercial insurer under enhanced monitoring.

#### **4. Commencement date**

4.1. Following a review of the public consultation feedback, the Rules will be finalised and will come into effect twelve months after being published.

##### **General Question**

**Question:** Do you see any practical issues with the proposed 'Rules' and commencement date?

*The Authority invites interested parties to submit their views on these proposals by emailing their comments to [FSRD@bma.bm](mailto:FSRD@bma.bm) no later than the close of business on Wednesday, 21 July 2023.*

## **Appendix I – Proposed Recovery Planning Rules**

### **INSURANCE (PRUDENTIAL STANDARDS) (RECOVERY PLAN REQUIREMENT) RULES**

**2023**

**BR X / 2023**

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The Bermuda Monetary Authority, in exercise of the powers conferred by section 6A (1) of the Insurance Act 1978, makes the following Rules:

#### **Citation**

1. These Rules may be cited as the Insurance (Prudential Standards) (Recovery Planning Requirement) Rules 2023.

#### **Interpretation**

2. In these Rules –
  - ‘Act’ means the Insurance Act 1978;
  - ‘Relevant supervisory authority’ means an overseas regulator, including any such regulator designated as group-wide supervisor of an insurance group or an internationally active insurance group, which is required under its national laws to discharge in their own territory or country, functions corresponding to those of the Authority under the Act.

#### **Insurers to prepare a recovery plan**

3. (1) The Authority may require a Class 3A, Class 3B, Class 4, Class C, Class D or Class E insurer or an insurance group, meeting the criteria in subparagraph (2), to prepare and submit a recovery plan.

(2) In determining when an insurer under subparagraph (1) shall be required to prepare a recovery plan, the Authority shall have regard to any of the following criteria, whether:

- a. An insurance group has been designated as an internationally active insurance group for which the Authority is the group-wide supervisor;
- b. The insurance group as defined in the Act, and where the Authority is the group-wide supervisor;
- c. An insurer carries on domestic business;
- d. An insurer that has a three-year rolling average—
  - i. Total assets of at least \$10 billion; or
  - ii. Total gross written premiums of at least \$5 billion; and
- e. An insurer is subject to enhanced supervisory monitoring by the Authority or any relevant supervisory authority.

(3) (1) Notwithstanding subparagraph 2, the Authority may, where deemed appropriate, have regard where an insurer (insurance group or internationally active insurance group) is required to prepare and submit a recovery plan to a relevant supervisory authority.

(2) Where an insurer [insurance group or internationally active insurance group] is required to prepare and submit a recovery plan to a relevant supervisory authority in accordance with subparagraph 1, the Authority may determine that a recovery plan is not required to be prepared and submitted to it.

(4) In determining the scope and requirements of a recovery plan, including the frequency, form, content and level of detail in the recovery plan required to be implemented by an insurer, insurance group or internationally active insurance group, the Authority will take into consideration the following:

- a. The class of registration of an insurer;
- b. Size or market share of an insurer, insurance group or internationally active insurance group;



- c. External and internal interconnectedness of an insurer, insurance group or internationally active insurance group;
- d. Complexity, business model and risk profile of an insurer, insurance group or internationally active insurance group;
- e. Substitutability of the insurer, insurer group or internationally active insurance group; and
- f. Any cross-border activities of an insurer, insurance group or internationally active insurance group.

(5) Every recovery plan to be prepared by an insurer, insurance group or internationally active insurance group in accordance with subparagraph 1, shall include, but is not limited to, the following matters —

- a. An executive summary, which provides an overview of the manner in which the recovery plan is intended to ensure that the insurer, insurance group or designated insurer will recover from severe stress scenarios;
- b. A description of the insurer, insurance group or internationally active insurance group, which includes but is not limited to—
  - (i) Its legal structure;
  - (ii) The insurance business carried on;
  - (iii) Key financial arrangements in place; and
  - (iv) Business operations.
- c. A description of the criterion proposed to be utilised by the insurer, insurance group or internationally active insurance group' that will require the implementation of any aspect of the recovery plan;
- d. A description of the insurer, insurance group or internationally active insurance group's governance policies and processes for recovery planning and implementation of the recovery plan or any updated recovery plan;

- e. Confirmation of the various methods proposed to be utilised by an insurer, insurance group or internationally active insurance group to enable it to recover from severe stress scenarios;
- f. The stress scenarios to be used by the insurer, insurance group or internationally active insurance group in assessing the credibility and feasibility of its recovery plan and the timing such is to be performed; and
- g. The communication strategy proposed to be utilised by an insurer, insurance group or internationally active insurance group to enable it to communicate with all relevant stakeholders before, during and after the recovery plan has come into effect.

(6) The Authority may require an insurer, insurance group or internationally active insurance group to implement all or part of a recovery plan.

(7) Where the Authority determines that all or part of a recovery plan is deficient, the Authority shall notify the insurer insurance group or internationally active insurance group in writing to address such deficiencies within any timeframe set out in the notice.

### **Updated Recovery Plan**

- 4. The Authority shall require any insurer, insurance group or internationally active insurance group to maintain an up-to-date recovery plan in accordance with the criteria under paragraph 3 (2).
- 5. An updated plan shall be submitted to the Authority

### **Commencement**

- 6. These Rules shall become operable on **[DATE]**.