

25 October 2023

STAKEHOLDER LETTER

Re: Consultation Paper – Proposed recovery planning rules for Bermuda commercial insurance sector

Introduction

The Bermuda Monetary Authority (Authority or BMA) wishes to thank its stakeholders for their continued engagement and support in progressing the BMA’s critical strategic initiatives. The Authority appreciates all feedback on the Consultation Paper (CP) issued in May 2023 on the proposed recovery planning Rules for Bermuda’s commercial insurance sector.

The Authority remains committed to working closely with its stakeholders to ensure that the Bermuda supervisory regime is effective, proportionate and aligned with international standards.

Response to Industry Feedback

The Authority received feedback from several stakeholders, and the responses to the **key substantive** comments received on the Code are outlined below.

Definition of relevant supervisory authority”

Some stakeholders noted that the use of “national laws” in the definition of “relevant supervisory authority” was too narrow as some jurisdictions regulate insurance at the state or province level and thus, may be excluded by reference to “national laws.”

Response

The Authority acknowledges the unintended limitations that can be brought about with the proposed definition of “relevant supervisory authority” and therefore will update the definition as follows:

‘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, that discharges in their own territory or country, functions corresponding to those of the Authority under the Act.

Insurance Groups

Clarification was sought on whether Bermuda-domiciled subsidiaries that are covered by group recovery plans will be required, under the proposed Rules, to prepare separate recovery plans.

Response

It is the Authority’s expectation that when an insurer is included in a recovery plan required by and filed with a group-wide supervisor (including where the group-wide supervisor is the BMA), the Authority will defer to the recovery plan filed with the group-wide supervisor unless there are material concerns that the group-wide recovery plan does not sufficiently cover the insurer. In the event that the Authority requires an insurer to prepare a separate entity-level recovery plan, the Authority will seek to cooperate and coordinate with the group-wide supervisor (where BMA is not the group-wide supervisor) to avoid inconsistent recovery planning and actions in times of crisis. However, to add more clarity to this criterion, the Authority will update the criteria as follows:

3.(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:

d. An insurer 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;

(3)(1) Notwithstanding subparagraph 2, the Authority may, where deemed appropriate, defer to the recovery plan filed with the group-wide supervisor, unless there are material concerns that the insurer may not be sufficiently covered by the group-wide recovery plan

(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.

Enhanced Supervisory Monitoring

Clarification was sought on the definition of insurer ‘under close monitoring’.

Responses

The Authority consider an insurer to be under ‘enhanced supervisory monitoring’ if the Authority has identified any prudential and/or conduct issues from that insurer that the Authority determines could potentially put the policyholders, financial stability, or the reputation of the jurisdiction at risk. Since the criteria for placing insurers under enhanced supervisory monitoring consider a range of prudential and or conduct issues, including considerations taken by any other relevant supervisory authority to place an insurer under enhanced supervisory monitoring, the Authority will not be including a specific definition for ‘enhanced supervisory monitoring’ in the Rules as this might limit its recovery planning supervisory abilities and powers.

Implementation of a recovery plan

Specific to section 3(6), clarification was sought he conditions by which an insurer might be required, by the Authority, to implement its recovery plan.

Response

The Authority agree with the suggestion and amend section 3(6) as follows

3 (6) If the Authority identifies any prudential or conduct concerns from that insurer, insurer group or internationally active insurance group, that the Authority determines could potentially put the policyholders, financial stability, or the reputation of the jurisdiction at risk, the Authority may require an insurer, insurance group or internationally active insurance group to implement all or part of a recovery plan.

Updated Recovery Plan

Clarification was sought on how often the recovery plan should be updated or when the Authority will require the updated plan to be submitted.

Response

To ensure clarity regarding how often the plan should be updated, the Authority amend the ‘updated recovery plan’ section as follows

- 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. The recovery plan should be reviewed and updated at least once every three years or when there is a material change in the financial position, strategy, business and risk profile of insurer.*
- 6. An updated recovery plan shall be submitted to the Authority within 30 days of being updated.*

Yours sincerely,

Bermuda Monetary Authority