



13 December 2018

Dear Stakeholders,

RE: Consultation Paper: Insurance Brokers and Insurance Agents Code of Conduct; and Insurance (Prudential Standards) (Brokers and Agent Annual Return) Rules 2018

The Bermuda Monetary Authority (the Authority) would like to thank stakeholders for their continued support in furthering the development of the Bermuda regulatory framework by reviewing and providing comments on the **Consultation Paper: Insurance Brokers and insurance Agents Code of Conduct** and **the Insurance (Prudential Standards) (Brokers and Agent Annual Return) Rules 2018**.

The Authority appreciates the feedback received and is committed to working closely with stakeholders to ensure an effective and efficient transition to the new standards.

It is important that the Bermuda regime be aligned with international standards, and as such, the Authority appreciates the support and valuable feedback received from our stakeholders in achieving this objective.

The Authority’s responses to the key substantive comments that were received are outline below. Any stakeholder who needs further clarification or additional information on any issue should contact the Authority directly at policy@bma.bm.

Paragraph/ section	Stakeholder comment	The Authority’s response
General Comments	<p>Local Bermuda banks are currently regulated to conduct a number of licensed activities in addition to banking and therefore the BMA already receives a large amount of the information as requested as part of the proposed Insurance annual return.</p> <p>Would the BMA consider accepting information already received from multi-licensed entities in satisfaction of the proposed new requirements for information to minimise duplication in information submissions?</p>	<p>For now, the Authority will take into consideration duplicate information where there are multiple insurance licenses. However, at moment the Authority uses the data in its predictive analytics department (DAPA) so multiple filings are needed but if data is the same then the Authority suggest that companies copy and paste across Returns.</p>

General Comment	<p>In response to Section b (ii) of the annual return that requires Agents and Brokers to submit to the BMA details of "other staff and employees who work for the managed insurers" it is suggested that the Authority should consider that these roles may be roles that experience a degree of turnover, and therefore this information can quickly become out of date.</p> <p>It is proposed that the Authority should revise to require licensed entities to maintain this information internally and available to the BMA upon request.</p>	<p>While there may be some expected turnover, too much turnover may be a problematic sign. Further, the Return is at a point in time on an annual basis so the Authority does not see the requirement as being too onerous.</p>
General Comment	<p>Domestic Brokers should be considered separately from International Brokers.</p>	<p>The Authority disagrees. This fits under proportionality and will fall out with the consideration of nature, scale and complexity of business.</p>
General Comment	<p>Qualified incorporated Domestic Brokers should be allowed to access non-admitted Insurers subject to certain stipulations (S.47 and 48 of the Insurance Act). This matter has been the subject of lengthy correspondence with the BMA during the past several years.</p>	<p>The BMA continues to review this matter and it will continue to be assessed on a case-by-case basis.</p>
<p>Consultation Paper (CP)</p> <p>Para. 4</p>	<p>As it is customary in many global organisations, that policies and procedures may be established at the group level and cascaded down to subsidiaries is this allowed?</p>	<p>Group policies and procedures can be cascaded from the group and adopted by the Bermuda broker/agent as long as there is evidence that they are ratified by the Bermuda board, e.g. minuted.</p> <p>The group policies should reflect any nuances in Bermuda where applicable and these may be as an appendix to the group policies.</p>
<p>Para. 6</p>	<p>Will the BMA publish guidance on how risk profiles will be assessed for purposes of the Code?</p>	<p>The Authority will consider this later as we have not yet published Guidance on Insurance Managers.</p>
<p>Para 14 (d)</p>	<p>There is reference to the licensed entity having: "(d) Pre-vetting</p>	<p>An example of an introduction to the Bermuda market qualifying for pre-</p>

	<p>process and policies designed to address the risks inherent in introducing new entities and individuals to Bermuda's corporate environment". It is not clear what this means, and we would be grateful for clarity.</p>	<p>vetting of entities is when entering into a relationship with a non-Bermuda entity to bind business defined as insurance under the Insurance Act 1978.</p>
Para. 15	<p>There is a proposed requirement that "Effectiveness and appropriateness assessments should be performed periodically by the senior management of the board." Is it intended to be carried out in respect of the internal controls (referred to in the prior sentence)? If yes, it is suggested that the phrase assessments [<i>of the risk related internal controls</i>] / [<i>risk and control framework</i>] be added.</p>	<p>The Authority agrees to Insert "of the risk and control framework".</p>
Para. 16	<p>What is the Meaning and relevance of "financial transactions" for Domestic Brokers and Agents?</p>	<p>The Authority's view is that staff need to identify strange financial transactions on an ongoing basis.</p>
Para. 19	<p>While we understand the requirement for Domestic Brokers to purchase Professional Indemnity we however believe less relevant to Agents which will be (governed by Principal/Agent Agreement).</p>	<p>The Authority's view is that the Insurance Amendment Act requires for brokers and agents to have sufficient indemnity insurance cover based on nature scale and complexity. As such, proportionality should be applied.</p>
Para. 21	<p>There is a requirement that an Insurance Agent may <i>only</i> "place insurance business with an Insurer(s) registered in Bermuda or as required and as permitted by its Certificate of Registration ... [and] will not be permitted to place insurance business with another Insurance Agent without the prior approval of the Authority." Does this mean that the Agent has to seek BMA approval to sell insurance manufactured by the company that is also a licensed insurance agent? It is suggested that sub-Agent or Producer arrangements should be permitted.</p>	<p>Agents should only place business with registered Bermuda insurers, unless it is otherwise specified by their Certificate of Registration or approved by the BMA.</p> <p>The Authority will generally not allow agent-to-agent business therefore Agents will need to approach the Authority on a case-by-case basis for permission.</p>

Para. 28	This requirement is Impractical for Domestic Brokers and Agents. Brokerage and Commission differ substantially depending upon service provided, type and extent of placement, nature of Agency Agreement, etc. Current Market arrangements work satisfactorily, i.e. customary and standard percentages apply for all transactions. This would not be required for Clients dealing directly with Domestic Insurance Companies hence putting domestics at a severe disadvantage.	The Authority partially agrees as this is more directed to broker so will remove agent reference.
Para. 29	This is totally impractical for Domestic Brokers and Agents and not in accordance with generally accepted practice. It would be physically impossible to 'discuss and agree terms of business' with each and every Personal and Commercial Lines Client.	The Authority agrees and will delete "discuss and..."
Para. 32	There is a need to distinguish disclosure requirements as they pertain to Brokers and Agents.	Noted. The paragraph does not require the same disclosure. The disclosure requirements may differ. S32 just says disclosure for an informed decision
Para. 34	It is proposed that licensed entities have documented complaint-handling procedures that are communicated to every policyholder, potential policyholder, client <i>or insurer</i> . We suggest clarification is needed.	The focus here is more on customers of brokers. For agents, this refers to insurers that are on the other side, e.g. when the agent is offering a reinsurance product. We note that complaints handling for agents will normally be contractually covered in their agreements with the insurers they act for.
Para.38 & 39	The insurance Broker acts for the Client, the insurance Agent acts for its Principal. This needs to be thought through.	Currently Insurance Agents are not caught under POCA. Brokers that deal with long term business are caught. Brokers dealing with General or Reinsurance are not caught
Para. 46 (c)	It is proposed that Agents and Brokers notify the Authority where there has been any change to its	The Authority agrees regarding 46c to insert "material".

	indemnity cover. As there may be minor changes to indemnity cover from year to year, that may be immaterial, we suggest that the requirement is revised so that notification is required where there is a "material" change to an entity's	
Insurance (Prudential Standards) (Brokers and Agent Annual Return) Rules 2018, Section 3	Would those entities that have dual licenses, i.e. insurance manager and insurance agent be permitted to submit only one filing for the legal entity since the Annual Return Templates are almost identical?	As the filings are used to aggregate data by development and predictive Analytics (DAPA) both require filing; however, the company could refer to the other return in specific stances to avoid submission of duplicate information. If the information is the same, the entity can copy and paste that information e.g. cyber tab, D&O etc.
Section 3(2A)	It is suggested that the wording in Section 3.2A be changed to the following; "... only required to file section I or J of Schedule III, as may be applicable"	Section J relates to Corporate Governance with section I for a broker or agent that is a company and section J if they are partnership, sole proprietorships or individuals. So an entity would only file one or the other so agree to wording change.
Section 3(3)	Section 3.3 requires the annual return to be accompanied by a copy of the broker's or agent's (a) management accounts for the financial year; and the BSCR model ; or (b) business plan for the next financial year. Is this correct?	This was an error and reference to "BSCR model" has been deleted.