

Market Q&A – Groups (General)

How does the Authority identify an insurance group and determine it will be Group Supervisor?

In determining whether it will identify a company as an insurance group and be Group Supervisor, the Authority will consider a Bermuda insurer's size (balance sheet) and significance in relation to the rest of its global operations, i.e. whether it directs and manages the business from Bermuda and that Bermuda is the jurisdiction where:

- a. the group's management control functions are located
- b. its main risks are underwritten
- c. major business decisions are taken
- d. major business are activities conducted

The Authority will also take into consideration the views of other potential group supervisors in this process. It will also consider information from the prospective group that the Authority has requested regarding scope of operations and any other representations by the company.

In certain cases where the Authority is not Group Supervisor, it may establish a Bermuda group; under what circumstances would this occur and how does this differ from an insurance group?

An insurance group is deemed to have its management control functions located in Bermuda and to direct its major business and operations from this jurisdiction. As such the Authority would be Group Supervisor for an insurance group.

In certain, generally exceptional, circumstances where the Authority is not the Group Supervisor it may establish a Bermuda group. A Bermuda group refers to an insurance group that is:

- a. headed by an intermediate holding company; or
- b. an insurer that is a subsidiary or affiliate of a larger insurance group with management and control functions located outside of Bermuda; or
- c. an insurer that is part of a larger group that is a conglomerate with material non-insurance operations.

The Authority may establish a Bermuda group where the Bermuda operations give rise to material risks or exposures and either:

- a. the Authority does not deem the overseas Group Supervisor equivalent; or
- b. the overseas Group Supervisor has asked the Authority to establish a Bermuda group or cannot effectively fulfill its duties in the absence of a Bermuda group; or
- c. where the overseas Group Supervisor has not yet implemented a group supervision regime or does not intend to do so, or the implementation of such a regime is likely to take an extended period of time.

How does the Authority notify a company that it has been identified as an insurance group; what is then required from the company?

The Authority is required by law to notify the group in writing that it has been identified as a Bermuda insurance group and that it will be the Group Supervisor of the group. The Authority is also required to notify in writing the other relevant authorities outside Bermuda which supervise the entities falling within scope of group supervision that it is the Group Supervisor for the insurance group.

The group is then required to submit information for inclusion in the Groups Register. The Authority maintains a register of information on every group for which it is Group Supervisor, which contains the names of the addresses of:

- a. appointed Designated Insurer for the group
- b. group auditors
- c. principal representative resident in Bermuda
- d. every entity and other relevant authority falling within the scope of the group supervision

What is the role of the Designated Insurer and why does the Authority require this function from a group?

The Designated Insurer is the lead insurer for the members of an insurance group operating from Bermuda. The Authority selects the Designated Insurer to be the administrative point of contact that will be responsible for ensuring a group fulfills its regulatory filing and compliance obligations. The Designated Insurer also acts in an “early warning” capacity to support overall effectiveness of the Authority’s group supervision oversight and execution of any enforcement actions deemed necessary in relation to a group.

As lead insurer, the Designated Insurer is selected based on a comprehensive review of its:

- a. financial position, and its strategic and operational importance to the group
- b. ability to fulfill required Designated Insurer duties in an efficient and effective manner
- c. access to group information

Please refer to the Authority’s ‘Guidance Note on the Role of the Designated Insurer’ for further details on the duties and responsibilities of the Designated Insurer. A copy is available on the BMA website in the Document Centre under Policy and Guidance/Insurance/Group Supervision.

What constitutes a supervisory college?

The Authority establishes a supervisory college for every group for which it is Group Supervisor. Broadly, several forms of colleges are conducted:

- a. Physical meetings with other supervisors that require insurance group participation, i.e. attendance by representatives of the group
- b. Physical meetings between the BMA and other supervisors that do not require a group’s participation

- c. 'Virtual' meetings between the BMA and other supervisors, e.g. teleconference or other mechanisms that facilitate bilateral or multilateral dialogue

Generally, if an insurance group is required to participate in a supervisory college, the Authority will notify it 6 - 9 months beforehand. A supervisory college will take place on a regular basis, as determined by the nature, scale and complexity of the group.

As part of its routine supervision of insurance groups, the Authority will conduct prudential meetings as required with the head of the group and other relevant representatives from management, separately from any supervisory colleges. Information from such meetings can assist in informing the supervisory college process.

How does the Authority convene and conduct supervisory colleges?

In order to conduct supervisory colleges, the Authority will establish formal, written agreements with other authorities supervising the group that set the broad operational and governance aspects of the college, including:

- a. college membership, and appropriate college structure and format;
- b. the role and functions of the college, including that of the Group Supervisor, which may be formalised in a terms of reference;
- c. memoranda of understanding, terms of reference or coordination arrangements that have been agreed with other relevant authorities;
- d. conducting regular assessments of the effectiveness of the supervisory college with input from college members; and
- e. creating a crisis management plan

As Group Supervisor, the Authority has the principal role in gathering and disseminating information related to the college, in accordance with information sharing and confidentiality protocols agreed with other participating supervisors.

To determine the practical operation of each college it conducts, the Authority establishes a coordination arrangement with participating supervisors. The coordination arrangement sets out:

- a. details of the supervisory activities to take place under the college
- b. specific operational functions, e.g. convening meetings, decision making processes, dispute resolution, communicating with head of the insurance group
- c. procedures for information exchange and the type of information about the group that may be disseminated among supervisors

Discussions from the college will result in a work plan that is agreed by participating supervisors. The work plan coordinates the supervisory activities of the college members in the following 12 months, and is required to be updated at least annually.

What is an insurance group required to do in preparation to attend a physical meeting for a supervisory college?

Generally, the Authority will advise the group of the date set for the meeting 6 - 9 months beforehand to confirm for scheduling purposes.

Three months prior to the meeting the Authority will advise the group of the topics it has agreed should be covered in the college with other participating supervisors, and what information the group will need to provide to facilitate the discussion. At that point the group will also be required to confirm who will attend the college on its behalf.

What will be communicated to the group after a college is completed?

As Group Supervisor the Authority is responsible for coordinating communication between the supervisory college and the head of the group.

Subsequent to the supervisory college, the Authority will communicate to the head of the group any action points the group will be required to undertake, and discuss next steps.

Communicating matters relevant to a legal entity within the group is the responsibility of the college member with supervisory jurisdiction over the entity.

Please refer to the Authority's 'Guidance Note on Supervisory Colleges' for further details on how the Authority conducts supervisory colleges for Bermuda insurance groups. A copy is available on the BMA website in the Document Centre under Policy and Guidance/Insurance/Group Supervision.