

## New Requirements to Notify the Authority of Material Change under the Bermuda Insurance Act 1978



Recent amendments to the Bermuda Insurance Act 1978 (the “Act”) have come into force which require an insurer or, in the case of a designated insurer (newly defined under the Act in relation to group supervision), a member of the group, seeking to effect a ‘material change’ to serve on the Bermuda Monetary Authority (the “Authority”) a notice in writing of its intention to do so. An insurer or designated insurer must wait a statutory 14 day period, beginning with the date of service of that notice, to elapse before effecting a material change, provided it has not received a notice of objection from the Authority within that period.

A designated insurer shall not be required to comply with the notice requirements if the member of the group is regulated by a competent regulatory authority in an equivalent jurisdiction (as defined in the Act) and the designated insurer has within 90 days of the event of a material change notified the Authority in writing of the material change by that member.

With effect from 31 December 2010, a material change constitutes:

- an acquisition or transfer of insurance business being part of a scheme falling within section 25 of the Act or section 99 of the Companies Act 1981;
- an amalgamation with or acquisition of another firm;

- engaging in non-insurance business and activities related thereto, where such business or related activity is not ancillary to the insurance business of the insurer; and
- engaging in unrelated business that is retail business.

Following receipt of a notice of intention from the insurer to effect a material change, the Authority has the power by notice in writing to the insurer to request further information or documents. If the Authority requests further information or documents, the 14 day period for which an insurer must wait before effecting a material change will be extended by the time between the Authority’s giving of the notice and its receipt of the information or documents.

The Authority has the power to serve a notice of objection on the insurer unless it is satisfied that:

- the interests of policyholders or potential policyholders of the insurer or the insurance group would not in any manner be threatened by the material change; and
- having regard to the material change, the requirements of the Act would continue to be complied with or, if not complied with, that the insurer or insurance group is likely to undertake remedial action.

Before serving a notice of objection, the Authority will first send a preliminary written notice stating that it is considering serving a notice of objection on the insurer. Such preliminary notice will specify which of the above matters have not been satisfied, give the reasons it is not satisfied and state that the insurer may within 28 days, beginning with the date on which the preliminary notice is served, make written representations to the Authority. The Authority will take any representations made by the insurer within that time period into account in deciding whether to serve a notice of objection.

If, after such time, the Authority decides to serve a notice of objection on the insurer, such notice will specify which of the above matters have not been satisfied, give the reasons for which it has not been satisfied and state that the insurer has the right to appeal the decision pursuant to section 44A of the Act. The Authority may withhold its reasoning if, in its opinion, it would involve the disclosure of confidential information which would be prejudicial to a third party.

Should you have any questions or requests for further information please contact:

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