

BMA'S NEW APPROACH FOR COMMERCIAL INSURERS

by Nicolas Champ

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Continuing its recast of the Bermuda regulatory regime applicable to the insurance industry, the Bermuda Monetary Authority (BMA), has instituted a number of changes to its statutory and prudential reporting requirements.

The changes apply to commercial insurers (i.e. Class 3A, Class 3B, Class 4, Class C, Class D and Class E insurers) and insurance groups (Commercial Insurers) with the implementation of the Economic Balance Sheet (EBS) framework.

Effective 1 January 2016, EBS was embedded in the Bermuda legislative and regulatory regime through a variety of legislative amendments. It modified the reporting regime applicable to Commercial Insurers and, as a result, the procedure for Commercial Insurers seeking exemptions from accounting provisions or filing requirements that was previously granted by the BMA under sections 56 and 6C of the Insurance Act 1978, as amended (Act).

Previously, Commercial Insurers were required to prepare and file with the BMA statutory financial statements (SFS) under section 15 of the Act and as prescribed under the Insurance Accounts Regulations 1980 (Accounts Regulations), additional generally accepted accounting principles (GAAP) financial statements under section 17A of the Act -- and a statutory financial return (SFR) under section 18 of the Act.

Commercial Insurers were able to obtain directions under section 56 of the Act, by which the BMA exempted such insurers from some or all of the requirements of sections 15 to 18 of the Act (Section 56 Direction).

Commercial Insurers were also able to be exempted from certain prudential standards in relation to their enhanced capital requirements, capital and solvency returns, insurance reserves and eligible capital imposed under rules made by the BMA under section 6A of the Act (Section 6A Rules). Exemptions to Section 6A Rules might be granted pursuant to section 6C of the Act, where the BMA concluded that an exemption did not prejudice the policyholders of that insurer and that insurer's risk or insurance group profile deviated materially from the assumptions underlying the enhanced capital requirement (ECR) applicable to the insurer.

Under the EBS framework, financial statements provided under section 17A of the Act are now used as the basis on which SFS is prepared subject to application of certain prudential filters contained in the Insurance Accounts Rules 2016 (Insurance Accounts Rules).

These financial statements are prepared according to one of the following standards:

- International Financial Reporting Standards;
- GAAP that apply in Bermuda, Canada, the United Kingdom or the United States of America; or
- Such other GAAP as the BMA may recognise.

SFS, in turn, form the starting basis for the preparation of EBS. SFS contain statements both on a consolidated and unconsolidated basis. The unconsolidated information forms the basis for assessing the Commercial Insurer's liquidity position, minimum solvency margin, and class of registration while the consolidated information will form the starting point for EBS. EBS is used as the basis to calculate the Commercial Insurer's ECR.

To complete these changes, section 6A of the Act was amended for the Insurance Accounts Rules to provide prudential rules prescribing the format and rules applicable to SFS and SFR. The BMA also amended the Insurance Account Regulations and Insurance Return and Solvency Regulations to remove any references to Commercial Insurers, and place these requirements in the Insurance Accounts Rules.

While the Accounts Regulations no longer apply to Commercial Insurers, they are still applicable to limited purpose insurers (i.e. Class 1, Class 2, Class 3, Class A, Class B insurers and special purpose insurers). The Insurance Accounts Rules now contain the reporting forms for the balance sheets, income statements, statements of capital and surplus and notes to the financial statements that are similar to those contained in the Accounts Regulations.

The EBS framework made a significant change to the statutory reporting regime for Commercial Insurers. The changes are numerous and are not limited to the production of SFS and ECR. The transfer of the provisions pertaining to the statutory reporting regime from the Account Regulations to the Insurance Accounts Rules and the amendment to section 6A of the Act has meant that the procedure to obtain exemptions from accountant provisions and filing requirements applicable to Commercial Insurers (Exemptions) has been modified.

Commercial Insurers seeking to obtain Exemptions must now apply to the BMA under section 6C of the Act only. Except for obtaining exemptions from the appointment of auditor provision (which still must be made under section 56 of the Act), no new Section 56 Direction will be granted to Commercial Insurers. These new applications will be made under section 6C of the Act, which provides that the BMA may exempt an insurer from the requirement to comply with any prudential standard applicable to it by or under the rules made under section 6A of the Act or modify such prudential standard.

The EBS framework provides a consistent and reliable valuation basis for regulatory reporting in line with international standards. It is designed to simplify the statutory reporting regime for Commercial Insurers and facilitate the BMA's review and understanding of Commercial Insurers and the insurance sector as a whole.

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