

Alert

Bermuda Insurance Code of Conduct and Independent Directors

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In December 2021, the Bermuda Monetary Authority (the “BMA”) issued a consultation paper proposing revisions to the Insurance Code of Conduct dated July 2015. On Friday, 28 August 2022 the BMA posted further and final revisions to the Insurance Code of Conduct based on stakeholder feedback. This revised draft of Insurance Code of Conduct comes into force on 1 September 2022, and insurers have until 1 September 2023 to comply with most of the provisions, other than with respect to section 8 of the Insurance Code of Conduct, where compliance will be required by 1 March 2023.

In addition to various changes to enhance the governance and risk management of insurers, the BMA recognises that environmental and social change continues to be a global threat, and, accordingly, the Insurance Code of Conduct has been amended to add “Sustainability Risk” as a material risk that should be considered in the development of policies and risk management strategies for all material risks.

We also note that the December 2021 draft of the proposed changes included a new paragraph stating that the board must include an appropriate number of independent non-executive directors. The final form now requires commercial insurers to have an independent, non-executive director other than in limited circumstances, and this requirement should be complied with by 1 September 2023. This new draft also includes a definition of an independent non-executive director as follows:

“An independent non-executive director is a director who is free from any business or other association including those arising out of a current beneficial ownership, existing or past involvement in the management of the insurer or as a customer, supplier or advisor that could materially interfere with the exercise of their independent judgment in the best interest of the insurer and its policyholders.”

In the accompanying letter to stakeholders, the BMA has provided examples that will constitute “materially interfere with independence,” which suggests that a former executive of the insurer or another member of the group would have to be retired for at least three years in order not to be considered a circumstance that will materially interfere with their independence.

You can find a copy of the final form of the Insurance Code of Conduct on the [BMA website](#). You can also find red lines of the Insurance Code on the BMA’s website [here](#) (August 2022) and [here](#) (December 2021). Please note the August 2022 draft of the Insurance Code of Conduct is redlined against the December 2021 draft of the Insurance Code of Conduct and the December 2021 draft of the Insurance Code of Conduct is redlined against the July 2015 Insurance Code of Conduct.

If you have any questions regarding the Insurance Code of Conduct, please feel free to contact your lawyer at Conyers.

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