



Bermuda Stakes Success on its Top-Tier Reputation



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INDUSTRY GROUPS ACROSS EUROPE, the United Kingdom and Bermuda applauded the European Commission's decision last November to approve the island for equivalency under Solvency II. When the European Union's highly-anticipated regulatory and supervisory system for insurers came into force 1 January 2016, Bermuda would be one of just two non-EU markets, with Switzerland, recognised for full equivalence - a move deemed a win-win scenario for parties on both sides of the Atlantic.

Solvency II ensures Bermuda's commercial and limited purpose insurers are treated on an equal footing with their EU counterparts, allowing them to keep their key operations in the 21-square-mile British Overseas Territory that rates alongside London and New York as one of the world's top-three re/insurance centres. Bermuda's global companies could now gain competitive entry to European markets - but just as importantly, European businesses and consumers would achieve the security of access to Bermuda's significant capacity and claims-paying record.

"Solvency II equivalence for Bermuda will ensure competitive markets and better prices for European businesses and consumers," affirmed Bradley Kading, President and Executive Director of the Association of Bermuda Insurers and Reinsurers (ABIR), whose 20 members - include 15 publicly-traded and regulated by the US Securities Exchange Commission (SEC) and three regulated by the London Stock Exchange - represent half the world's top re/insurers. ABIR data indicates Bermuda companies provided 20 per cent of UK Pool Re terrorism reinsurance placement, and historically have supplied 20 per cent of the European

property catastrophe reinsurance market. Additionally, Bermuda insurers covered up to 50 per cent of European-based airline and ocean marine catastrophic losses in recent years, and account for more than a quarter of capacity at Lloyd's of London.

"It is of great importance that European industrial and financial business entities have continued access to important commercial capacity from Bermuda commercial insurers and reinsurers," noted Jo Willaert, president of the Federation of European Risk Management Associations (FERMA), Brussels.

Added David Matcham, CEO of the International Underwriting Association (IUA), in London: "The Bermudian reinsurance market is an important source of diversification in reinsurance capacity for the international insurance market and for European insurers. Bermudian equivalence will ensure market access and be helpful for EU consumers."

Bermuda's successful Solvency II campaign took six long years of effort—in Brussels and on the island, where the Bermuda Regulatory Authority (BMA), an independent regulator, worked closely with industry to ensure Solvency II criteria were achieved. Observers agreed winning the endorsement as an early non-EU market was a far-reaching victory, and not just for Bermuda's risk-management sector; it also spoke volumes about the EU's acknowledgement of the BMA's top-tier regulation and Bermuda's reputation as an International Finance Centre as a whole.

The European Commission's approval of Bermuda for full equivalence is very positive news for the whole jurisdiction and what it says about our island's regulatory

environment and the careful way we supervise our international financial centre is reassuring. It confirms how the larger world, particularly Europe, views Bermuda as a world player in this sphere.

Bermuda's regulator has taken a pragmatic, consultative approach to compliance, working cohesively with industry and government stakeholders, as well as international regulatory bodies, to keep Bermuda's oversight of financial entities responsive and contemporary. Regularly assessed by the International Monetary Fund (IMF), the BMA counts 23 memoranda of understanding (MOUs) with other regulators, including those of eight US states. While Solvency II underscores Bermuda's reputation in Europe, the BMA's regulatory leadership is also well understood in America, where the island is one of seven qualified jurisdictions selected by the US National Association of Insurance Commissioners (NAIC). The stamp of approval allows Bermuda's reinsurers to do business on a cross-border basis with US clients, conducting business under a streamlined set of regulatory requirements. Indicative of the BMA's stature: its deputy director of policy and research was appointed chair of the International Association of Insurance Supervisors (IAIS) Reinsurance Task Force in 2016.

"The world is watching to see how Europe will transform its risk industry and improve the protection of its policyholders," said BMA CEO Jeremy Cox of the November 26 Solvency announcement, as a three-month review by the European Parliament and Council began. "The world will also be watching to see how Bermuda plays its part in this epic transformation. It has been a long

journey and an incredible amount of work has gone into this over the past six years. At the Authority, we are delighted that it is now on the brink of successful completion.”

The Solvency II milestone should have come as no surprise, given Bermuda’s history as a nexus of corporate innovation, a nation of ‘firsts.’ The world’s first captive insurers were born here, and later, the first true excess liability carriers, followed more recently by the first prop cats and cat bonds. In 2009, Bermuda became the first offshore jurisdiction to reach the white list of the Organisation for Economic Cooperation and Development (OECD), demonstrating the island’s regulatory leadership. The world’s insurance capacity crunch of the 1980s was solved in Bermuda; alternative risk-financing is now forging the future.

While the re/insurance industry is the most prominent of the domicile, Bermuda’s economy is supported by its multi-sector scope. The island is a thriving centre for funds, trusts, private-client and family-offices structures, a global ship registry, ship-management firms, an aviation registry—plus blue-sky ventures ranging from marine-sourced pharmaceuticals to ecommerce and technology start-ups. Bermuda’s sophisticated infrastructure and the corporate synergy it engenders have made the jurisdiction a hub for global enterprise.

Just as the drive for Solvency II was undertaken for Bermuda’s insurance sector, the BMA is now working collaboratively with policymakers, regulators and industry stakeholders to reach a similar threshold for the island’s asset management industry in Europe. Bermuda, home to some 800 investment funds, remains fully committed to the process of qualifying under rules set out by the European Union for third-country rights for island-based alternative fund managers.

Over the summer of 2015, Bermuda prepared and passed new legislation to position the island as a strong contender among jurisdictions vying to meet European standards set for alternative fund managers. Amendments to Bermuda’s Investment Business Act (IBA) reinforced the jurisdiction’s highly-respected regulatory reputation and placed the domicile in a strong situation to be considered for non-EU ‘passport’ rights under the Alternative Investment Fund Managers

Directive (AIFMD). The updates establish a regime in which the BMA would oversee locally-based managers who wish to market their alternative investment funds (AIFs) via the passport in Europe.

“As a premier jurisdiction with a highly respected reputation, we expect Bermuda will be favourably considered for passport rights in the next stage of this assessment process,” said Sean Moran, the BDA’s Business Development Manager for the asset management sector. “This is an ongoing process and we are fully committed to seeing it through.”

As a result of its 2015 legislative efforts, Bermuda will be included in the next wave of third-country assessments by the European Securities and Markets Authority (ESMA). The BMA is currently working with ESMA to provide information needed for assessment, and industry stakeholders will soon receive a consultation paper for review and comment. “Bermuda is on its journey towards equivalence under the AIFMD, having achieved some significant milestones over the past several months,” said a BMA spokesperson. “The Authority welcomes the fact ESMA has included Bermuda as one of the countries to be considered in its assessment as we refine the regulatory regime for alternative investment fund managers.”

Across all of Bermuda’s financial services, similar top-level regulation and blue-chip reputation prevail—underscored by the island’s strong record as a highly cooperative, transparent jurisdiction. Bermuda has long been recognised as a leader on tax-transparency issues by the OECD, the Financial Action Task Force (FATF) and G20 nations. The island is also compliant with US and UK anti-money laundering (AML) and anti-terrorist financing (ATF) requirements, and has no banking-secrecy laws.

Bolstering this reputation are Bermuda’s global partnerships. The island holds an impressive 91 tax-transparency treaty accords worldwide, including 41 bilateral Tax Information Exchange Agreements (TIEAs) and 87 multi-lateral agreements under the Convention on Mutual Administrative Assistance in Tax Matters. Bermuda has had Know Your Customer rules in place for some 60 years; its corporate beneficial ownership registry has operated for decades, sharing pertinent information to relevant authorities when requested.

Like the BMA, the Bermuda Stock Exchange (BSX) has also won respect from mainland peers; its accreditation is recognised by the Securities Exchange Commission (SEC) as a Designated Offshore Securities Market (DOSM) under Regulation S; as a ‘Registered Organisation’ of the London Stock Exchange; as a full member of the World Federation of Exchanges, an affiliate member of IOSCO; and as an approved stock exchange under tax rules of Australia, Canada and the UK.

“Bermuda’s main financial services are about the provision of high-quality, good value, well-regulated and well-regarded insurance and reinsurance to the wider world,” Bermuda’s UK Governor, George Fergusson, told London-based Insurance Day, echoing the widely held view.

Bermuda is a tax-neutral jurisdiction, with no income or corporate taxes, but instead a slate of payroll tax, import duties, a mandated pension and healthcare scheme, and custom duties on goods and services. Notably, Bermuda does not differentiate between local companies and exempted (foreign) companies in the way they are taxed. This consumption versus income-based tax system—a tailored approach considered a sovereign right by the United Nations and World Trade Organisation—was designed to support its own infrastructure and forms a major component of the island’s tax revenues.

Striving for a unique profile has always set Bermuda apart from other international finance centres—differentiating the island as a cooperative centre of excellence in all its industry sectors. Over many decades, Bermuda’s pursuit of high standards has charted a clear course to align itself with best practices worldwide—a philosophy that has never been more important amid the fast-changing global regulatory landscape.

Bermuda has earned a reputation of being clean, transparent and renowned for its appropriately robust regulation. As the world moves further towards greater transparency and compliance, Bermuda’s pragmatic approach will continue to provide confidence to those who do business with us, including investors seeking to accumulate long-term capital in a safe, stable and commercially sensible jurisdiction. ■