LIMITED CONSULTATION

Regulatory Policy on Recognition and Approval of An Actuary

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A. Introduction

1. The Board of Directors of the Cayman Islands Monetary Authority ("the Authority" or "CIMA") on 08 May 2024 resolved that the Authority seeks a limited consultation and comment from the private sector associations concerning the proposed *Regulatory Policy – Recognition and Approval of an Actuary* (attached as Appendix I).

2. Accordingly, prior to the issuance of the proposed regulatory policy, the Authority is inviting the following Associations for a limited consultation for a twenty (20) day period:

   (1) Cayman Islands Insurance Association,
   (2) Cayman International Reinsurance Companies Association, and
   (3) Insurance Managers Association of Cayman Limited

B. Background

3. Given the complex and often long-term nature of risks involved in the business conducted by insurers, an actuary, who is a senior individual with the necessary expertise and experience to provide impartial advice to the board and contribute expert insight at a senior management level, is essential. Additionally, the appointed actuary plays a vital role in the protection of policyholder interests.

4. In 2002, a policy, *Approval of an Actuary for a Regulated Institution,* was first developed by the Authority, and private sector association comments from the consultation were received from the Insurance Managers Association of Cayman. This policy was reviewed and amended again in 2003 based on further regulatory developments, including the recommendations of an Insurance Law Review Working Group, revisions to Core Principles issued by the International Association of Insurance Supervisors ("IAIS"), and other further informal stakeholder collaboration.

5. In 2007, the Authority issued a *Regulatory Policy – Recognition and Approval of an Actuary* to reflect current practices in the Insurance Supervision Division and to align with the *Insurance Law (2004 Revision)*. The main amendments to the originally developed 2002/3 policy were: the title amendment, a reorganisation of the Policy to demonstrate the legal distinction between recognition and an approval of actuaries according to the Insurance Law, and any specific reference to in-house actuaries was removed (since the policy is more directly targeted to addressing the meaning of actuary under the Insurance Law).

6. Since the issuance of the 2007 Policy, various developments have occurred in the local legislation governing and international best

practices applicable to the recognition and approval of actuaries. Therefore, the Authority considers it necessary to review these developments and update the 2007 Policy to incorporate any appropriate changes. The applicable legal and international standards considerations are covered in **Section C** and **Section D**.

7. The Authority consistently recognises that, according to the International Actuarial Association ("IAA")[1], "*the actuarial profession is exceptionally well placed to support regulators in safeguarding the interests of policyholders. This is partly because the profession's training and practice provide insight and experience in managing the risks which insurance companies face. It is also because the profession's requirement to serve the public is highlighted in [its principles]*."

8. In accordance with the Insurance Act, 2010 ("IA") and Regulations, one of the roles of the actuary is to submit to the Authority an annual certified valuation of the insurer's assets and liabilities, including loss and loss expense provisions. Actuarial valuation is an important tool used to assess long-term financial obligations and is crucial for regulatory compliance and maintaining the trust of policyholders and stakeholders.

9. Further, given the significant contribution that an effective appointed actuary provides to an insurer and to prudential safety more broadly, there are strongly aligned interests between CIMA, insurers, and the actuarial profession in updating and implementing a revised Policy.

C. <u>International Standards</u>

10. The IAIS is the international standard-setting body responsible for developing and assisting in implementing principles, standards, and other supporting material for the insurance sector's supervision. The Insurance Core Principles ("ICPs") issued by the International Association of Insurance Supervisors require that some vetting or approval of key functionaries, such as actuaries working or acting for insurers, are conducted by insurance supervisors. Of the revised (2019) international standards laid down by the IAIS, those directly relevant to actuaries are ICP 4, 5 and 8 below.

11. The key provisions of ICP 4.4.3 contain that:

    (1) "*In assessing the application, the supervisor could rely on audits by external bodies, actuarial reports, or in the case of branches or foreign subsidiaries on the opinion of other supervisors. Supervisors should consider the reports or opinions from these various sources carefully and apply their own judgment in making the final decision on the application. Before placing reliance on reports from external auditors or actuaries, supervisors should consider:*

[1] https://www.actuaries.org/LIBRARY/Papers/Prudential_Supervision_EN.pdf

- *whether the external auditors and* ***actuaries*** *have the necessary expertise and experience to perform the roles; and*
- *their independence from the legal entity and the consideration they give to the protection of policyholders' interests.*"

(2) ICP 5.3 states, "*The supervisor requires the insurer to demonstrate initially and on an ongoing basis, the suitability of Board Members, Senior Management, Key Persons in Control Functions and Significant Owners. The suitability requirements and the extent of review required by the supervisor depend on the person's role.*"

(i) *5.3.7 "In assessing the integrity of an individual Board Member, Senior Management, Key Person in Control Functions and Significant Owner, the supervisor should consider a variety of indicators such as:*

- *Other indicators: These may provide other information that could reasonably be considered material for the assessment of the suitability of an individual. Examples include:*
    - *(…) disciplinary action or measures taken against an individual by a professional organisation in which the individual is or was a member (eg, actuaries, accountants or lawyers); or*
    - *(b) strength of character, such as the ability and willingness to challenge, as an indicator of a person's integrity as well as competence to perform the respective role."*

(3) ICP 8.6.b on Group-wide actuarial policy states that *"The group-wide supervisor requires the Head of the IAIG to ensure that the group-wide actuarial function:*

- *works with the actuarial functions at the insurance legal entity level to review actuarial information; and*
- *provides independent advice and at least annually reports to the IAIG Board or one of its committees on the insurance activities and risks posed to the IAIG."*

(i) Below summarises the *Appointed Actuary* section (*8.6.7 – 8.6.12*), which covers the supervisor's requirements to ensure the effectiveness of the appointed actuary.

(a) The appointed actuary is responsible for specific functions related to an insurer's compliance with regulatory requirements. The specific tasks and responsibilities of the appointed actuary should be clearly defined.

(b) The insurer should be required to report the appointed actuary's appointment to the supervisor.

(c) The appointed actuary should not hold positions within or outside the insurer that may create conflicts of interest or compromise their independence.

(d) If an appointed actuary is replaced, the insurer should notify the supervisor and give the reasons for the replacement.

(e) The appointed actuary should notify the supervisor and provide an explanation if the insurer revokes his or her appointment. In some jurisdictions, the actuary should also notify the supervisor if he or she resigns and explain their decision.

(f) The supervisor should have the power to remove an appointed actuary from an insurance company if that individual fails to fulfil their responsibilities, has conflicting interests, or no longer meets the requirements set by the jurisdiction.

OECD– Guidelines for Insurers' Governance

12. The Organisation for Economic Co-operation and Development ("OECD") is an intergovernmental organisation that develops evidence-based standards and policies to stimulate economic progress. The OECD *Guidelines for Insurers' Governance* was published in 2005, stating that drafting guidelines dedicated to insurers' governance should focus on two main objectives. Firstly, identifying additional measures that can enhance policyholder and shareholder protection beyond what is already provided by existing regulations and supervision. Secondly, developing guidance tailored to the insurance sector to supplement general corporate governance rules.

13. Guideline 6 speaks to the role of actuaries in the insurance industry. The role includes assessing risks, ensuring the quality of information disclosed, and protecting policyholders. The regulations regarding the role of actuaries vary across OECD countries, but there has been a trend towards increasing their powers in both life and non-life sectors. Most OECD countries require entities to appoint an outside or in-house actuary in the life insurance market. However, some countries have developed alternative models where the actuarial function is performed by top management or the supervisory authority. This model may be challenging to replicate as it requires strong supervisory oversight and qualified staff.

14. The appointment of an actuary may be subject to supervisory review, and an unsatisfactory review can lead to removal. Adequate

qualifications and adherence to professional standards are essential criteria for actuarial appointment. Some countries also have a peer review process for actuaries. Independence is another crucial aspect, and measures should be in place to prevent conflicts of interest.

15. In addition to traditional roles such as calculating technical commitments and assessing solvency, actuaries may also be assigned other tasks such as solvency supervision, certification of documents, suitability of reinsurance arrangements, stress testing of the future financial condition of the entity, and assessment of risk and investment policies. These tasks and responsibilities may vary depending on the country's regulations.

16. Overall, the role of actuaries is significant in ensuring the soundness and compliance of insurers in both the life and non-life sectors, and their influence will continue to increase in the future.

Financial Conduct Authority

17. The Financial Conduct Authority ("FCA") is the conduct regulator for the financial services industry in the United Kingdom. Its role includes protecting consumers, keeping the industry stable, and promoting healthy competition between financial service providers. According to the FCA Handbook, it addresses the need for every actuary appointed by a firm to have the necessary skill and experience to provide appropriate actuarial advice from a conduct perspective. Under the section *Supervision, Chapter 4 - Actuaries*, rule 4.3.9 states, "*Before a firm applies for approval of the person it proposes to appoint as an actuary…it must take reasonable steps to ensure that the actuary:*

    (1) "has the required skill and experience to perform his functions under the regulatory system; and

    (2) is a Fellow of the Institute of Actuaries or of the Faculty of Actuaries" ("IFoA").

18. Therefore, to comply with this rule, the appointed actuary should possess skills and experience that align with the nature, scale and complexity of the firm's business needs and regulatory standards. It is also essential for the actuary to hold relevant qualifications and have a practising certificate under the rules of the IFoA. The supervisor should verify these qualifications with the actuary or their current and past employers.

19. The Handbook also states the rule that "*a firm must not appoint under the Prudential Rules Authority ("PRA") rules made under section 340 of the Financial Services and Markets Act, 2000 (the "Act") or for the purposes of rule 6.1 of the PRA Rulebook: Solvency II firms: Conditions Governing Business, an actuary who is disqualified by the FCA under section 345 of the Act (Disciplinary measures: FCA) or the PRA under section 345A of the Act (Disciplinary measures: PRA) from acting as an actuary either for that firm or for a relevant class of firm."* If it appears to the FCA that an actuary has failed to comply with a duty required of

him under the Act, it has the power to disqualify him under section 345 of the Act. The FCA has published a list of disqualified actuaries, which may be found on their website.

20. A firm should also ensure that an actuary who is to be or has been appointed:

    (i) "*does not perform the function of chairman or chief executive of the*
    firm, or does not, if he is to perform the with-profits actuary function, become a member of the firm's governing body; and

    (ii) does not perform any other function on behalf of the firm which could give rise to a significant conflict of interest."

21. Either employees of the firm or external consultants can perform the actuarial function and the with-profits actuary function. While performing other tasks for the firm may not always create a conflict of interest, holding a position such as director or senior manager responsible for sales, marketing, or finance will likely result in a significant conflict of interest for an actuary performing the with-profits actuary function.

The Actuarial Association of Europe

22. The Actuarial Association of Europe ("AAE") was established in 1978 to represent European actuarial associations. The AAE currently has 38 member associations in 37 European countries, representing over 29,000 actuaries. Advice and comments provided by the AAE on behalf of the European actuarial profession are independent of industry interests. The AAE's purpose is to provide advice and opinions to the various organisations of the European Union – the Commission, the Council of Ministers, the European Parliament, European Insurance and Occupational Pensions ("EIOPA") and their multiple committees – on actuarial issues in European legislation. The AAE also develops a core syllabus for its member associations and works with them to build model actuarial standards.

23. In June 2016, the AAE published a paper, *The Role of Actuaries under Solvency II.* It highlighted the significant insurance industry changes impacting solvency quantification complexity, governance requirements, and reporting standards under the Solvency II Directive. Actuaries are crucial in the new environment, requiring additional competencies, risk management, and supervision involvement. According to the article, the roles of actuaries, including appointed actuaries and in the context of external audits, may evolve while new roles in risk management and supervision are emerging. The involvement of actuaries has expanded with new areas for participation, although practices may vary across different markets.

24. The AAE conducted a survey in September 2015 amongst its Member Associations to find out how the roles of the actuaries under Solvency II are implemented in the different markets. Associations representing 26

other markets of the European Union answered the survey. Focusing on **Observation 2:** *"In 95% of the cases, the Actuarial Function Holder is a qualified actuary."* The Solvency II Directive requires the Actuarial Function to be performed by individuals with expertise in actuarial and financial mathematics tailored to the risks of the insurance business. In practice, most Actuarial Function Holders are qualified actuaries. Actuarial associations are developing professional frameworks to support this role, with the IFoA in the UK mandating a Practicing Certificate for members in this position. Similar certification is offered voluntarily by the Society of Actuaries in Ireland. These associations emphasise that their members meet the "fit and proper" criteria outlined in the Solvency II framework.

D. Purpose of Proposed Measure and Consistency with the Authority's Functions

25. The proposed measure is consistent with the Authority's statutory objectives of the Monetary Authority Act ("MAA"):

(i) Section 6(2) (a) and (b), which provides that, among others:

"In performing its functions and managing its affairs, the Authority shall—

(a) act in the best economic interests of the Islands; and
(b) promote and maintain a sound financial system in the Islands".

(ii) To align with the approach taken in the past, for good measure, the Authority intends to engage with select private sector associations for a limited consultation before issuance of this Policy. Notwithstanding, the Policy can be implemented without consultation pursuant to 48(3)(b) of the MAA, which states that "*the regulatory handbook shall include policies and procedures for giving reasons for the Authority's decisions."* In addition, it will not require consultation pursuant to 48(4):

> *"In cases where the regulatory handbook would have the effect of creating, directly or indirectly, rules or statements of principle or guidance, the Authority shall consult with the private sector associations and the Minister charged with responsibility for Financial Services*

E. Implementation in Other Jurisdictions

26. Five (5) jurisdictions were selected for a comparative assessment of recognition and approval practices based on their similarity with the Cayman Islands. The jurisdictions selected represent those with similar or equivalent regulatory frameworks to the Cayman Islands or represent a competitor jurisdiction of the Islands in the insurance business. The selected jurisdictions include Australia, Bermuda, Canada, Guernsey,

and the United States of America. These jurisdictions were assessed based on the criteria outlined in the proposed measure; the findings are shown in Table 1.

Table 1: Summary of Jurisdictional Comparison on Recognition and Approval of an Actuary

Key:	✓ = Criteria included in the regulatory framework - = Criteria not included/ not found in the regulatory framework					
	Jurisdictions					
Assessment Criteria	**Australia**	**Bermuda**	**Canada**	**Guernsey**	**United States of America**	**Cayman Islands**
Measure	Prudential Standard	Guidance Note	Guideline	Guidance Note/ Enforcement Policy	Standards of Practice/ Regulation	Proposed Regulatory Policy
Qualified Fellowship Member	✓	✓	✓	✓	✓ [2]	✓
Maintains Education Requirements	✓	✓	-	-	✓	✓
Code of Professional Conduct	✓	✓	✓	✓	✓	✓
Disciplinary Process	-	✓	-	-	✓	✓
Experience (minimum five years)	✓	-	✓	-	-	✓
Continuing Professional Development	✓	✓	✓	-	✓	✓
No disciplinary issues outstanding	✓	-	✓	✓	✓	✓
No Conflict of Interest	✓	✓	✓	✓	✓	✓
Professional Accountability	✓	✓	✓	✓	✓	✓

[2] A person with an Associate designation of a professional body can also be considered, at the discretion of the American Academy of Actuaries ("the Academy"), to be admitted as a member of the Academy and so perform an actuary role. An Associate is a person who has qualified at a generalist level and has a breadth of expertise that brings wide and varied opportunities.

Key:	✓ = Criteria included in the regulatory framework - = Criteria not included/ not found in the regulatory framework					
	Jurisdictions					
Assessment Criteria	**Australia**	**Bermuda**	**Canada**	**Guernsey**	**United States of America**	**Cayman Islands**
Measure	Prudential Standard	Guidance Note	Guideline	Guidance Note/ Enforcement Policy	Standards of Practice/ Regulation	Proposed Regulatory Policy
Approval Process	✓	✓	-	✓	✓	✓
Change in Actuary	✓	✓	✓	✓	✓	✓
Change of Business Plan (fit and proper)	-	-	-	-	-	✓
Disqualification	✓	✓	✓	✓	✓	✓

Australia

27. The *Prudential Standard CPS 320 Actuarial and Related Matters ("CPS 320")* ensures that Australian insurers have access to appropriate actuarial advice for the prudent operation of their business. It outlines the requirements for appointing an actuary and establishes guidelines for providing actuarial advice. The appointed actuary's role is crucial in offering expert and impartial advice to the board and senior management to ensure sound management, policyholder protection, and financial prudence. Essential requirements include establishing an actuarial advice framework, providing necessary support to the appointed actuary, preparing financial reports, and submitting relevant reports to the Australian Prudential Regulation Authority ("APRA").

28. APRA addressed logistical challenges insurers face when the appointed actuary is temporarily absent, whether due to planned reasons like annual leave or unforeseen circumstances like temporary incapacitation. To overcome these challenges while maintaining compliance with regulatory requirements, a framework for temporary appointments to the appointed actuary role can be implemented within the actuarial advice framework. Under this framework, insurers can nominate qualified individuals to temporarily replace the appointed actuary when needed, with only one person holding the position at any time. The nominated replacement must meet fit and proper standards and be approved by the board in consultation with the existing appointed actuary. When a temporary replacement is necessary, the insurer must inform APRA in writing, ahead of the change, detailing the period and the individual assuming the role during the absence.

29. The *Guidance Note – Actuary's Opinion on Economic Balance Sheet ("EBS") Technical Provisions* elaborates on Bermuda Monetary Authority's ("BMA") approach to supervising insurers in their engagement of an Actuary appointed to assess the reasonableness of their Technical Provisions ("TPs"). It outlines fundamental requirements for insurers and their Actuaries during this engagement, emphasising the importance of Actuary approval in Bermuda's insurance supervisory framework. The approval process ensures the Actuary's professionalism and compliance with actuarial standards.

Bermuda

30. The *Guidance Note – Actuary's Opinion on Economic Balance Sheet ("EBS") Technical Provisions* elaborates on Bermuda Monetary Authority's ("BMA") approach to supervising insurers in their engagement of an Actuary appointed to assess the reasonableness of their Technical Provisions ("TPs"). It outlines fundamental requirements for insurers and their Actuaries during this engagement, emphasising the importance of Actuary approval in Bermuda's insurance supervisory framework. The approval process ensures the Actuary's professionalism and compliance with actuarial standards.

31. Insurers are required to provide information to the Authority upon request to demonstrate that their Actuary candidate or incumbent Actuary meets the eligibility and the fit and proper criteria. If an insurer argues that they underwrite specialist business segments that must be reported jointly under General Business or Long-Term Business categories, the Authority may consider appointing an additional Actuary for those segments at their discretion. If an insurer proposes an Actuary who may not meet all the fit and proper criteria, they should engage in preliminary discussions with the Authority to address any issues beforehand. The Authority has the discretion to impose appropriate limitations on approvals, considering specific circumstances, such as the insurer's business operations that the Actuary will assess.

Canada

32. In August 2023, the Office of the Superintendent of Financial Institutions ("OSFI") published the *Guideline - Appointed Actuary: Legal Requirements, Qualifications and Peer Review* (*t*he "Guideline"). This Guideline outlines the responsibilities of the appointed actuary in federally regulated insurance companies and details the expectations of OSFI regarding this role.

33. In all, OSFI introduced six new revisions to the Guideline, which describes the rules for appointed actuaries. One such revision is if an appointed actuary resigns or has their appointment revoked, no one can accept a new appointment without requesting a written statement from the previous appointed actuary that was submitted to the directors or, chief agent, and Superintendent. A new appointment may be accepted

if there is no response within 15 days of the request. The company is expected to notify the Superintendent, in writing, of the newly appointed actuary within 30 days of their appointment by the board or chief agent, as per OSFI's expectations.

Guernsey

34. The *Insurance Business (Bailiwick of Guernsey) Law 2002* requires the appointment of an Actuary by companies writing long-term business unless agreed in writing by the Guernsey Financial Services Commission (the "Commission"). According to the *Guidance Note on Actuarial Requirements and Standards*, *c*ompanies must inform the Commission if the appointment ends and make a new appointment within 28 days. The Commission mandates that the named actuary fill out and submit a personal questionnaire to verify their fitness and propriety, as well as their experience and qualifications to act for the company.

United States of America

35. The Actuarial Standards Board of the Academy sets standards for appropriate actuarial practice in the United States of America through the development and promulgation of Actuarial Standards of Practice ("ASOP"). The current 57 ASOPs describe the procedures an actuary should follow when performing actuarial services and identify what the actuary should disclose when communicating the results of those services. In September 2000, the Academy published the Code of Professional Conduct, which sets high standards for actuaries in their conduct, practice, and qualifications to support the actuarial profession in fulfilling its responsibility to the public. Actuaries are required to comply with this Code, and any material violations of the provisions of the Code will lead to counselling and discipline procedures.

36. Additionally, the National Association of Insurance Commissioners ("NAIC") sets out extensive guidelines for actuaries writing reports related to long-term business and property and casualty business. The NAIC issued a Regulatory Guidance, *Actuarial Opinion and Memorandum Regulation* in April 2010*.* One of the goals of issuing the regulation was to promote financial integrity. The document provides clarity to the companies and appointed actuaries regarding qualifications, requirements, and rules consistent with relevant actuarial standards of practice.

F. Cost and Benefit Analysis

Table 3 – Cost-Benefit Analysis of Implementing the Proposed Measure

	Costs	Benefits
CIMA	1. The Authority will incur the usual administrative costs associated with publication, amending CIMA's	1. The proposed measure will improve the recognition and approval processes for actuaries and promote

	Costs	Benefits
	supervisory procedures and staff training. These costs are considered manageable and represent the usual costs of the Authority in carrying out its mandate.	supervisory effectiveness and efficiency. 2. Since the Policy incorporates the relevant guidance by IAIS, this facilitates a favourable rating in the event of an evaluation by international standard setters. 3. The implementation of the proposed measure is consistent with the practice in other comparable jurisdictions, where it does not serve as a barrier to industry for potential actuary applicants who are not fellows of a professional association. 4. Enhances CIMA's effort to ensure a safe and sound financial system while adhering to international best practices.
Cayman Islands	1. There are no significant costs to the jurisdiction from implementing the enhanced Policy for the Recognition and Approval of an actuary.	1. Enhance the jurisdiction's profile as an international financial centre through adherence to international best practices, thereby improving the results of future assessments by international standard setters. 2. Successful implementation of this Policy will enhance the jurisdiction's reputation since the proposed measure aligns with international standards, as opposed to the current Policy. Therefore, the proposed measure will guide the insurance sector and consequently have a significant and positive impact on confidence in the Cayman Islands as a strong, well-regulated financial centre.
Regulated Entities	1. Regulated entities will continue to bear the compliance costs, specifically related to ensuring that their compliance frameworks are aligned with the requirements of the Recognition and Approval of an actuary, such as: • training staff on any new responsibilities; and • restructuring systems and compliance manuals to ensure any requisite	1. The proposed measure would allow regulated entities to appoint qualified, fit and proper actuaries due to the Policy clarifying CIMA's expectations regarding the recognition and approval of actuaries. 2. The implementation of the proposed measure is consistent with the practice in other comparable jurisdictions, where it does not serve as a barrier to regulated entities who

	Costs	Benefits
	information can be provided to the Authority.	are seeking applicants, and it may be the case where the applicant does not meet the criteria of being a fellow of a professional association. 3. Regulated entities will benefit from the positive spill-overs associated with the improvement in confidence and reputation of the jurisdiction.
Summary	Consequent to the above, it is determined that the benefits outweigh the costs, and the issuance of the proposed measure on the *Recognition and Approval of an Actuary* should be pursued.	

G. Comments and Consultation

37. The Authority seeks consultation concerning:

    Regulatory Policy – Recognition and Approval of an Actuary

38. The Authority would like to receive feedback and comments by 1700hrs on **05 June 2024**.

39. Comments and representations must be addressed to:

The Managing Director
Cayman Islands Monetary Authority
P.O. Box 10052
SIX, Cricket Square
Grand Cayman KY1-1001
Cayman Islands
Tel: 345-949-7089
Fax: 345-946-5611
Email:
contactpolicy@cima.ky

SIX, Cricket Square
PO Box 10052
Grand Cayman KY1 - 1001
CAYMAN ISLANDS

General Office: 345-949-7089

www.cima.ky