

# AS TABLED IN THE HOUSE OF ASSEMBLY

## **A BILL**

### **entitled**

## **INSURANCE AMENDMENT (NO. 2) ACT 2025**

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	Amendments to the Bermuda Monetary Authority Act 1969

## **INSURANCE AMENDMENT (NO. 2) ACT 2025**

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WHEREAS it is expedient to amend the Insurance Act 1978 to make provisions to enhance the oversight and regulation by the Bermuda Monetary Authority of insurance groups by expanding the criteria for group supervision; by creating a regime for regulating designated insurance holding companies for the purposes of group supervision; by confirming the circumstances in which the Authority shall act as group supervisor; by requiring notification and no-objection of certain material changes with respect to an insurance holding company; and for purposes connected with and incidental to those matters;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

### **Citation**

1 This Act, which amends the Insurance Act 1978 (the "principal Act"), may be cited as the Insurance Amendment (No. 2) Act 2025.

### **Amends section 1**

2 Section 1 of the principal Act is amended as follows—

- (a) in the definition of "available statutory capital and surplus" by deleting the words "under section 6D or by or under Rules made under section 6A" and substituting "under section 6D or section 27FA(3), or by or under Rules made under section 6A or section 27F";
- (b) in the definition of "available statutory economic capital and surplus" by deleting the words "under section 6D or by or under Rules made under section 6A" and substituting "under section 6D or section 27FA(3), or by or under Rules made under section 6A or section 27F";
- (c) in the definition of "capital and solvency return" by inserting after "section 6A" the words "or section 27F";
- (d) in the definition of "enhanced capital requirement" by inserting after "section 6A" the words "or section 27F";
- (e) in the definition of "participating company" by inserting after "section 6A" the words "or section 27F";
- (f) in the definition of "statutory economic balance sheet" by inserting after "section 6A" the words "or section 27F";
- (g) in the definition of "total statutory economic capital and surplus" by inserting after "section 6A" the words "or section 27F";
- (h) by inserting in the appropriate alphabetical order the following—
  - " "designated insurance holding company" means an insurance holding company designated under section 27BB;
  - "insurance holding company" has the meaning given in section 27A;".

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### **Amends section 2**

3 The principal Act is amended in section 2(1) by inserting after “marketplace providers” the words “or designated insurance holding companies”.

### **Amends section 2A**

4 Section 2A(1) of the principal Act is amended as follows—

- (a) in paragraph (e)—
  - (i) by deleting the words “an insurer’s” and substituting “an insurer’s or an insurance group’s”;
  - (ii) by inserting after “section 6D” the words “or section 27FA(3)”;
- (b) in paragraph (f) by inserting after “registered person” the words “or a designated insurer”;
- (c) in paragraph (g)—
  - (i) by deleting the words “section 27B” and substituting “section 27B(2)”;
  - (ii) by deleting the word “and”;
- (d) by inserting after paragraph (g)—

“(ga) in exercising its power under section 27BB with respect to the designation and registration of designated insurance holding companies; and”.

### **Amends section 2BA**

5 Section 2BA of the principal Act is amended as follows—

- (a) in subsection (1) by deleting the words “and designated insurers” in both places they appear;
- (b) in subsection (3) by deleting “and designated insurer”;
- (c) in subsection (4) by deleting “or designated insurer”.

### **Amends section 6A**

6 Section 6A of the principal Act is amended as follows—

- (a) in subsection (1)—
  - (i) by inserting the word “and” at the end of paragraph (h);
  - (ii) by repealing paragraph (i);
- (b) in subsection (1A)—
  - (i) by repealing paragraphs (c) and (f);
  - (ii) by inserting the word “and” at the end of paragraph (d);

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- (iii) in paragraph (e) by deleting “; and” and substituting a full stop;
- (c) in subsection (2)(a) by deleting the words “or designated insurers”;
- (d) in subsections (3)(a) and (3)(b) by deleting the words “designated insurer,”.

### **Amends section 6C**

7 Section 6C of the principal Act is amended as follows—

- (a) in subsection (1) by deleting the words “designated insurer,” in both places they appear;
- (b) in subsection (3) by deleting the words “or the obligations of the designated insurer or insurance group of which the designated insurer is a member towards their policyholders”;
- (c) in subsection (4) by inserting after “agent,” the word “or” and deleting the words “or designated insurer”;
- (d) in subsection (5) by deleting the words “designated insurer,”.

### **Amends section 6D**

8 Section 6D of the principal Act is amended as follows—

- (a) by deleting the words “or insurance group’s” in subsections (1) and (7);
- (b) by deleting the words “or designated insurer” in subsections (2), (3), (4), (5) and (7);
- (c) by deleting the words “or insurance group” in subsections (6)(a) and (6)(b);
- (d) by deleting the words “or the insurance group’s” in subsection (6)(a)(ii).

### **Amends section 6G**

9 Section 6G of the principal Act is amended as follows—

- (a) in the heading by inserting after “Recovery plan” the words “for insurers”;
- (b) in subsection (1) by inserting after “Class D,” the word “or” and deleting the words “or an insurance group”;
- (c) in subsections (2) and (3) by deleting the words “or insurance group”.

### **Amends section 14**

10 Section 14(1) of the principal Act is amended as follows—

- (a) by inserting “an” at the beginning of paragraphs (f), (g), (h) and (i);
- (b) in paragraph (g) by inserting after “section 6C(1)” the words “or with respect to an insurance group, in accordance with the provisions of section 27FA(1)”;

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- (c) in paragraph (h) by deleting “or insurance group’s”;
- (d) by inserting after paragraph (h)—

“(ha) an application under section 27FA(4) for an adjustment to an insurance group’s enhanced capital requirement or available statutory capital and surplus or available statutory economic capital and surplus, as the case may be;”.

### **Amends section 15A**

11 Section 15A of the principal Act is amended in subsections (5) and (6) by deleting “civil penalty” and substituting “late fee”.

### **Amends section 16**

12 Section 16 of the principal Act is amended by repealing subsections (1A) and (1B).

### **Amends section 18A**

13 Section 18A of the principal Act is amended as follows—

- (a) in subsection (1) by deleting the words “civil penalty” and substituting “late fee”;
- (b) in subsection (2) by deleting the words “civil penalty” and substituting “late fee” in both places it appears.

### **Amends section 27A**

14 Section 27A of the principal Act is amended as follows—

- (a) by repealing the definition of “equivalent jurisdiction”;
- (b) by inserting in the appropriate alphabetical order the following—

“ “designated insurance holding company” means an insurance holding company designated under section 27BB;

“insurance holding company” means an entity that is a body corporate incorporated or formed, including by way of continuation, in Bermuda, that holds participations in one or more companies where at least one of the companies is an insurer;”.

### **Amends section 27B**

15 Section 27B of the principal Act is amended as follows—

- (a) by repealing subsections (1) and (2) and replacing them with the following—

“(1) The Authority shall be the group supervisor of an insurance group where the matters set forth in subsection (3)(a) or (b) apply.

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(2) The Authority—

- (a) may, in respect of an insurance group to which the matters set forth in subsection (3)(c) apply, determine whether it is appropriate for it to be the group supervisor of that insurance group; and
- (b) shall, before making such a determination, take into account the matters provided in subsection (3)(c).”;

(b) in subsection (3)—

- (i) by deleting the words “Those matters are—” and substituting “The matters referred to in subsections (1) and (2) are—”;
- (ii) in paragraph (b) by deleting the words “a parent entity which is incorporated in Bermuda” and substituting “a parent entity which is a body corporate incorporated or formed, including by way of continuation, in Bermuda, that is not itself a subsidiary of any other entity (an ultimate parent entity in Bermuda)”;
- (iii) in paragraph (c) by deleting the words “a parent company which is not incorporated in Bermuda” and substituting “a parent company which is not a body corporate incorporated or formed, including by way of continuation, in Bermuda”;

(c) by repealing subsection (4) and replacing it with—

“(4) The Authority shall give notice in writing to the relevant entity of its intention to make a determination under subsection (2) to act as group supervisor for the relevant entity’s insurance group, and the Authority shall take into account any written representations made by the relevant entity within such period as the Authority may specify in the notice.”;

(d) in subsection (5) by deleting the words “makes a determination under subsection (1) in respect of an insurance group” and substituting “is the group supervisor in respect of an insurance group pursuant to this section”;

(e) by inserting after subsection (6) the following—

“(6A) The Authority may, where it deems appropriate to ensure effective group supervision, review its determination under subsection (2).”.

**Inserts sections 27BA, 27BB and 27BC**

16 The principal Act is amended by inserting after section 27B the following—

**“Authority may review effectiveness of group supervision**

27BA (1) The Authority, if it appears to it that any of the matters set forth in subsection (2) are satisfied—

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- (a) may consider the effectiveness of group supervision in respect of an insurance group; and
  - (b) shall make a determination whether it is appropriate for the purposes of effective group supervision of the insurance group to cancel the designation and registration (under section 27B) of its designated insurer, and designate and register an insurance holding company under section 27BB as the designated insurance holding company for that insurance group.
- (2) The matters referred to in subsection (1) are that—
- (a) the Authority is unable to effectively discharge any one or more of its functions under section 27E as group supervisor for the insurance group by supervising its designated insurer;
  - (b) any one or more of the conditions set forth in section 32(1) are met and the Authority deems that intervention would not be effective by supervising the designated insurer for the insurance group.
- (3) If the Authority intends to make a determination under subsection (1) (b) to cancel the designation and registration of a designated insurer under section 27B, the Authority shall give notice in writing to the designated insurer—
- (a) of its intention to make such a determination and the reasons for the determination; and
  - (b) that the designated insurer may within such period as the Authority may specify in the notice make written representations to the Authority.
- (4) The Authority shall take into account any written representations made by the designated insurer within such period specified under subsection (3) (b) and notify the designated insurer and the insurance group in writing of any determination made by it under this section.

### **Designation and registration of insurance holding company**

27BB (1) This section applies if the Authority makes a determination under section 27BA(1)(b) with respect to the cancellation of the designation and registration of a designated insurer under section 27BA for the purposes of effective group supervision.

(2) Where subsection (1) applies, the Authority shall designate such entity set forth in subsection (3), that it considers appropriate as the designated insurance holding company for the insurance group for the purposes of this Act.

(3) For the purposes of subsection (2), the Authority may designate any one of the following entities as the designated insurance holding company for its insurance group—

- (a) the ultimate parent company incorporated in Bermuda;

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- (b) an intermediate holding company incorporated in Bermuda;
- (c) the specified insurer that is the head of the insurance group; or
- (d) the Head of the IAIG.

(4) In determining the entity to be designated as the designated insurance holding company for an insurance group, the Authority may have regard to the entity that exercises control over—

- (a) insurers in the group; and
- (b) other members of the group which may pose a risk to the insurance business of the group.

(5) The Authority shall give notice in writing to the relevant entity of an insurance group of its intention to designate and register the entity as the designated insurance holding company for the insurance group.

(6) A notice issued by the Authority under subsection (5) shall—

- (a) state the reasons for its intention to designate the relevant entity as the insurance holding company for the insurance group;
- (b) confirm that the relevant entity may make written representations in relation to such designation, within the time period specified in the notice.

(7) The Authority shall take into consideration any written representations made by the relevant entity within such period specified in the notice, prior to issuing its designation in writing to that entity.

(8) Where the Authority designates and registers an entity as an insurance holding company under this section, the Authority shall issue a certificate of registration which shall prescribe—

- (a) the name and business address of the designated insurance holding company;
- (b) the date of registration.

(9) A certificate of registration issued under subsection (8) shall remain in force until it is cancelled by the Authority.

(10) A certificate of registration issued in accordance with this section shall be accepted by all courts as prima facie evidence of the fact that the insurance holding company named therein is registered and of the particulars set forth in the certificate.

(11) The Authority shall publish a list on its website: [www.bma.bm](http://www.bma.bm) of the name of every insurance holding company designated and registered under this section, and where such registration is cancelled by the Authority pursuant to subsection (9), the Authority shall delete the name of the insurance holding company from the website listing as soon as reasonably practicable.

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### **Application of Act in relation to designated insurance holding companies**

27BC (1) This section applies where the Authority designates an insurance holding company as a designated insurance holding company for an insurance group under section 27BB.

(2) The provisions set forth in this subsection shall apply with any necessary modifications in respect of a designated insurance holding company as they apply in relation to a designated insurer—

- (a) sections 2A(1)(b) and (f);
- (b) sections 27B(8) and 27B(11) to (16);
- (c) sections 27C, 27CA, 27D, 27F, 27FA, 27FB, 27FC and 27G;
- (d) sections 29A, 29B and 29C;
- (e) sections 30, 30A, 30AA and 30C;
- (f) sections 30JB and 30JC;
- (g) sections 32A, 32B, 32C, 32D(4) and 32F(3); and
- (h) section 44A.

(3) Section 30J(2) shall apply in relation to designated insurance holding companies as if the words “designated insurance holding company or parent company (where different)” were substituted for the words “parent company”.

(4) Section 32H shall apply in relation to a designated insurance holding company—

- (a) in subsection (1), as if the words “or a designated insurance holding company” were inserted after the words “a regulated person”;
- (b) in subsection (5), as if the words “or designated insurance holding company” were inserted after the words “A registered person”.

### **Repeals and replaces section 27D**

17 The principal Act is amended by repealing and replacing section 27D as follows—

#### **“Authority may withdraw as group supervisor**

27D (1) The Authority may withdraw as group supervisor if the matters set forth in section 27B(3)(a) or (b) do not apply and—

- (a) it considers that it would be appropriate to do so having regard to the structure of the insurance group and the relative importance of the insurance group’s insurance business in different countries or territories;

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- (b) it determines that there has been a material change in the structure or operations of the insurance group; or
- (c) for any other reason that prevents the Authority from effectively discharging its function as group supervisor for that insurance group.

(2) In connection with withdrawal under this section, the Authority will plan and coordinate meetings in cooperation with the college of supervisors or competent authorities concerned to ensure effective group supervision by a competent authority continues.

(3) The Authority shall notify the relevant insurance group in writing of its intention to withdraw as group supervisor and shall take into account any written representations made by the insurance group within such period as it may specify in the notice.

(4) The Authority shall notify the designated insurer and the college of supervisors or relevant competent authority in writing of any decision made by it under this section. ”.

### **Amends section 27F**

18 Section 27F of the principal Act is amended as follows—

- (a) in subsection (1) by deleting the words “insurance groups and IAIGs” and substituting the words “designated insurers and Heads of IAIGs”;
- (b) in subsection (2)—
  - (i) by deleting the word “and” at the end of paragraph (d);
  - (ii) by deleting the full stop at the end of paragraph (e) and substituting a semi-colon;
  - (iii) by inserting after paragraph (e) the following—
    - “(f) prudential and technical standards; and
    - (g) recovery plans.”;
- (c) in subsection (4), by deleting the words “Sections 6A(4), (5), (6) and (7) shall apply” and substituting “Sections 6A(5), (6) and (7) shall apply”.

### **Inserts sections 27FA, 27FB and 27FC**

19 The principal Act is amended by inserting after section 27F the following—

**“Authority may exempt from or modify prudential or technical standards or adjust enhanced capital requirement, statutory capital and surplus, and insurance reserves**

27FA (1) The Authority may, where it has made a determination or on the application of a designated insurer, exempt the insurance group from the

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requirement to comply with any prudential or technical standard applicable to it by or under the Rules made under section 27F or modify any such prudential or technical standard applicable to it by or under the Rules made under section 27F.

(2) Sections 6C(2), (3), (3A), (4), (5) and (6) shall apply to an application made under subsection (1) with any necessary modifications.

(3) Without prejudice to its powers under this Act to give directions, the Authority may in the circumstances mentioned in section 6D(6) make such adjustments to an insurance group's enhanced capital requirement, available statutory capital and surplus, total statutory capital and surplus, and available statutory economic capital and surplus as it considers appropriate, and such adjustments may require an increase in the amount of insurance reserves to the level of prudential standards prescribed under section 27F.

(4) The Authority may on the application of a designated insurer make adjustments to the insurance group's enhanced capital requirement, available statutory capital and surplus, total statutory capital and surplus or available statutory economic capital and surplus, and any adjustment so made shall take effect on such date as the Authority may determine.

(5) Sections 6D(2), (3), (4), (5), (6) and (7) shall apply to an application by a designated insurance holding company made under subsection (4) with any necessary modifications as they apply in respect of insurers under those subsections.

### **Recovery plan for insurance groups**

27FB (1) Subject to this section the Authority may require an insurance group to prepare a recovery plan.

(2) Any requirement to prepare a recovery plan under subsection (1) shall take into account the nature, scale, complexity and risk profile of the insurance business so conducted by the insurance group.

(3) A designated insurer shall ensure that its insurance group, which is required to prepare a recovery plan—

- (a) provides to the Authority such information and documentation in respect of that recovery plan or the preparation thereof as the Authority deems appropriate; and
- (b) maintains, at its head office in Bermuda, physical and electronic copies of the most recent recovery plan prepared in accordance with this section.

(4) The Insurance (Prudential Standards) (Recovery Plan) Rules 2024 shall apply with respect to recovery plans for insurance groups unless Rules are made by the Authority under section 27F for the purposes of recovery plans for insurance groups.

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### **Appointment of auditors**

27FC (1) A designated insurer shall ensure that the insurance group of which it is a member appoints an auditor approved by the Authority under this section to audit the financial statements of the group.

(2) Sections 16(2), (3), (4), (5), (6), (8) and section 16A apply in relation to a designated insurer and the auditor of its insurance group as they apply in relation to an insurer and its auditor.”.

### **Amends section 30CA**

20 The principal Act is amended in section 30CA(3) and (4) by deleting the words “a civil penalty” and substituting the words “a late fee”.

### **Amends section 30JA**

21 The principal Act is amended in section 30JA(1)(b) by deleting the words “amalgamation with or acquisition of” and substituting “amalgamation with, acquisition of or merger with”.

### **Amends section 30JB**

22 Section 30JB of the principal Act is amended as follows—

- (a) in subsection (2) by deleting the words “30JA (1)(b), (c), (d), (e), (f), (g), (h) and (i)” and substituting “30JA (1)(d), (e), (f), (g), (h), (i) and (j)”;
- (b) by inserting after subsection (2) the following—

“(2A) No member of an insurance group shall effect a material change within the meaning of section 30JA(1)(b) unless the requirements of subsection (4) are satisfied:

Provided however that where such a material change relates to or is effected by a member of the insurance group that is outside of Bermuda and is to be effected outside of Bermuda, that material change shall be subject to notification under subsection (2) and the requirements set forth in subsection (4) shall not apply.”;

- (c) in subsection (4)—
  - (i) by deleting the words “subsection (1)” and substituting “subsections (1) and (2A)”;
  - (ii) by repealing and replacing paragraphs (a) and (b) with the following—
    - “(a) the insurer or designated insurer has served on the Authority a notice in writing stating that the insurer, or in relation to an insurance group a member thereof, intends to effect such a material change; and
    - (b) either the Authority has, before the end of the period of 30 days beginning with the date of service of that notice, notified the insurer or designated insurer in writing that there is no objection

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to the insurer, or in relation to an insurance group a member thereof, effecting the material change, or that period has elapsed without the Authority having served the insurer or designated insurer with a written notice of objection to the material change.”.

### **Amends section 30JC**

23 Section 30JC(1)(b) of the principal Act is amended by inserting after “insurer” the words “or designated insurer”.

### **Amends section 32A**

24 Section 32A of the principal Act is amended as follows—

- (a) in subsection (2) by inserting after the words “particular,” the words “ as applicable”;
- (b) by inserting after subsection (2) the following—

“(3) The Authority may, without prejudice to subsection (1) require a designated insurer to submit a plan detailing the manner, specific actions to be taken and time frame within which the designated insurer will bring itself or the relevant member of the insurance group into compliance with the relevant provisions of this Act or any rules made under this Act.

(4) The Court on the application of the Authority may issue an injunction restraining specified actions by a designated insurer in respect of its insurance group and the provisions of section 32L apply with any necessary modifications with respect to such application.”.

### **Amends section 32D**

25 Section 32D of the principal Act is amended by deleting the words “a penalty” and substituting “a civil penalty” in subsections (1), (3) and (4).

### **Amends section 35**

26 Section 35 of the principal Act is amended as follows—

- (a) by inserting after “insurer” the words “or designated insurance holding company” in the introductory words of subsection (1) and in paragraphs (1)(a) and (1)(b);
- (b) by inserting after “insurer” the words “or designated insurance holding company” in subsections (3) and (4) wherever it appears.

### **Amends section 44A**

27 Section 44A(1) of the principal Act is amended as follows—

- (a) by inserting after “registered person” the words “or a designated insurer”;
- (b) in paragraph (c)—

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- (i) by deleting the words “an insurer’s” and substituting “an insurer or insurance group’s”;
- (ii) by inserting after the words “section 6D” the words “or section 27FA(3) respectively”.

### **Consequential amendments to the Bermuda Monetary Authority Act 1969**

28 The Schedule to this Act has effect with respect to the consequential amendments to the Bermuda Monetary Authority Act 1969.

### **Savings**

29 (1) An exemption from or modification of prudential or technical standards granted or made by the Authority under section 6C of the principal Act in relation to a designated insurer or an insurance group which is in force immediately before the commencement day, shall continue in effect in respect of the insurance group as if it had been granted or made under section 27FA(1) of the principal Act.

(2) An adjustment to an insurance group’s enhanced capital requirement, available statutory capital and surplus, total statutory capital and surplus or available statutory economic capital and surplus which has been made by the Authority under section 6D of the principal Act which is in force immediately before the commencement day, shall continue in effect in respect of the insurance group as if it had been made by the Authority under section 27FA(3) of the principal Act.

(3) A recovery plan prepared by an insurance group in accordance with the Insurance (Prudential Standards) (Recovery Plan) Rules 2024 which is valid immediately before the commencement day, shall continue in effect in accordance with such Rules in respect of the insurance group.

(4) The appointment of an auditor for an insurance group which has been approved by the Authority under section 16(1A) of the principal Act and is in effect immediately before the commencement day shall continue in effect as if it had been made or approved by the Authority in exercise of its powers under section 27FC of the principal Act.

(5) In this section “commencement day” means the day appointed by the Minister of Finance under section 31 for the coming into operation of this Act.

### **Transitional**

30 (1) This section applies where pursuant to section 27B(1) of the principal Act (as amended by section 15 of this Act), an insurance group becomes subject to group supervision by the Authority on the commencement day.

(2) Where this section applies, an insurance group shall have a period of 12 months beginning on the commencement day to take such steps as required for the purposes of group supervision by the Authority.

(3) The Authority may on the application by an insurance group to which this section applies extend the twelve-month period under subsection (2) for such further periods not exceeding 12 months in aggregate if satisfied that this is required for the

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purposes of the insurance group's compliance with the principal Act as amended by this Act.

(4) In this section "commencement day" means the day appointed by the Minister of Finance under section 31 for the coming into operation of this Act.

### **Commencement**

31 This Act shall come into operation on such day as the Minister of Finance may appoint by notice in the Gazette.

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### SCHEDULE

(section 28)

### AMENDMENTS TO THE BERMUDA MONETARY AUTHORITY ACT 1969

#### Amends the Third Schedule

1 The Third Schedule to the Bermuda Monetary Authority Act 1969 is amended by inserting after “section 4 or 10” the words “, or designated and registered under section 27BB,”.

#### Amends the Fifth Schedule

2 (1) Part B (2025) of the Fifth Schedule to the Bermuda Monetary Authority Act 1969 is amended as follows—

- (a) in paragraph 2—
  - (i) by inserting after “section 6A” the words “or section 27F” in subparagraphs (n), (o), (p), (q), (w), (ad), (ae) and (af);
  - (ii) by inserting after “section 6C” the words “or section 27FA(1)” in subparagraphs (s), (t), (u), (v), (y), and (aa);
  - (iii) by inserting after “section 6D” the words “or section 27FA(3)” in subparagraphs (w) and (wa);
- (b) by inserting after “designated insurer” the words “or designated insurance holding company (if any)” in paragraphs 8(a) and (b);
- (c) by repealing the introductory words to paragraph 8(c) and replacing them with the following—

“(c) Annual fee under section 27B payable by a designated insurer or designated insurance holding company (if any) on behalf of an insurance group carrying on run off general business where:”.

(2) Part C (2026) of the Fifth Schedule to the Bermuda Monetary Authority Act 1969 is amended as follows—

- (a) in paragraph 2—
  - (i) by inserting after “section 6A” the words “or section 27F” in subparagraphs (n), (o), (p), (q), (w), (ad), (ae) and (af);
  - (ii) by inserting after “section 6C” the words “or section 27FA(1)” in subparagraphs (s), (t), (u), (v), (y) and (aa);
  - (iii) by inserting after “section 6D” the words “or section 27FA(3)” in subparagraphs (w) and (wa);
- (b) by inserting after “designated insurer” the words “or designated insurance holding company (if any)” in paragraphs 8(a) and (b);

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(c) by repealing the introductory words to paragraph 8(c) and replacing them with the following—

“(c) Annual fee under section 27B payable by a designated insurer or designated insurance holding company (if any) on behalf of an insurance group carrying on run off general business where:”.

## **INSURANCE AMENDMENT (NO. 2) BILL 2025**

### **EXPLANATORY MEMORANDUM**

This Bill seeks to amend the Insurance Act 1978 (the “Act”) to make provisions to enhance the oversight and regulation by the Bermuda Monetary Authority of insurance groups by expanding the criteria for group supervision; by creating a regime for regulating designated insurance holding companies for the purposes of group supervision; by confirming the circumstances in which the Authority shall act as group supervisor; by requiring notification and no-objection of certain material changes with respect to an insurance holding company; and for purposes connected with and incidental to those matters.

Clause 1 provides for the title of the Bill.

Clause 2 amends section 1 of the Act with respect to definitions for the interpretation of the Act including definitions for “designated insurance holding company” and “insurance holding company”. Clause 2 also amends section references in certain definitions to reflect the amendments made by this Bill.

Clause 3 amends section 2 of the Act (functions of the Authority) to provide for the Authority’s supervision of any designated insurance holding companies.

Clause 4 amends section 2A of the Act (statement of principles) to include provision for the Authority to issue of a statement of principles with respect to certain matters related to insurance groups, designated insurers and designated insurance holding companies.

Clause 5 amends section 2BA of the Act (codes of conduct) to delete references to “designated insurer”.

Clause 6 amends section 6A of the Act (prudential and technical standards) to delete references to “designated insurer” and “internationally active insurance groups”.

Clause 7 amends section 6C of the Act ( exemption of insurers, insurance managers and intermediaries from or modification of prudential or technical standards) to delete references to “designated insurer”.

Clause 8 amends section 6D of the Act ( adjustment of enhanced capital requirement, statutory capital and surplus, and insurance reserves) to delete references to “designated insurers” and “insurance groups”.

Clause 9 amends section 6G of the Act (recovery plan) to delete references to insurance groups.

Clause 10 amends section 14 of the Act (fees) with respect to the power of the Authority to prescribe fees for any applications made in accordance with section 27FA.

Clause 11 amends section 15A of the Act (declaration of compliance) to delete references to “a civil penalty” and insert references to “a late fee”.

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Clause 12 amends section 16 of the Act ( appointment and approval of auditors) to delete references to “designated insurer”.

Clause 13 amends section 18A of the Act (failure to file statutory statements or returns) to delete references to “a civil penalty” and insert references to “a late fee”.

Clause 14 amends section 27A of the Act (interpretation) to repeal the definition of “equivalent jurisdiction” and to insert the definitions of “insurance holding company” and “designated insurance holding company”.

Clause 15 amends section 27B of the Act (group supervision) to clarify the circumstances in which the Authority shall act as group supervisor and the matters pursuant to which the Authority may make a determination whether to act as the group supervisor of an insurance group. A new subsection (6A) has been inserted to confirm the Authority’s power to review its determination under subsection (2) with respect to group supervision.

Clause 16 inserts sections 27BA, 27BB and 27BC into the Act. Section 27BA confers power on the Authority to make a determination whether group supervision in respect of an insurance group is effective. Section 27BB makes provision for the designation and registration of designated insurance holding companies for the purposes of effective group supervision. Section 27BC seeks to apply the provisions of the Act that currently relate to designated insurers and other relevant provisions of the Act to designated insurance holding companies, with the necessary modifications.

Clause 17 repeals and replaces section 27D of the Act (Authority may withdraw as group supervisor) to clarify the circumstances in which the Authority may withdraw as group supervisor, and collaborate with the college of supervisors or relevant competent authorities with respect to group supervision by a competent authority.

Clause 18 amends section 27F of the Act (Authority to make Rules) to provide that rules applying to designated insurers and Heads of IAIGs for the purposes of group supervision are made under section 27F.

Clause 19 inserts sections 27FA, 27FB and 27FC in the Act in consequence of the textual amendments to sections 6C, 6D, 6G and 16 respectively of the Act. Section 27FA provides for exemption from or modification of prudential or technical standards or adjustment of enhanced capital requirement, statutory capital and surplus and insurance reserves in relation to insurance groups. Section 27FB sets forth provisions for recovery plans in relation to insurance groups. Section 27FC makes provision for the appointment of auditors in relation to insurance groups.

Clause 20 amends section 30CA of the Act (notification of change of shareholder controller or officer) to delete the references to “a civil penalty” and substitute references to “a late fee”.

Clause 21 amends section 30JA of the Act (material change of an insurer or insurance group) to include a reference to a merger with another firm.

Clause 22 amends section 30JB of the Act (notification of material change: insurer or insurance group) to include a new subsection (2A) to provide for prior notice and power for objections with respect to an amalgamation or merger with or acquisition of another

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firm. Where such a change is effected by any member of an insurance group outside of Bermuda the change shall continue to be subject to notification under subsection (2).

Clause 23 amends section 30JC of the Act (objection to material change: insurer or insurance group) to include designated insurers.

Clause 24 amends section 32A of the Act (contraventions by designated insurers) to provide an additional power to the Authority to require a designated insurer to submit a plan detailing how compliance will be effected and provides that the Court may, on the application of the Authority, issue an injunction restraining specified actions.

Clause 25 amends section 32D of the Act (power to impose civil penalties for breach of requirements) to provide that the penalties imposed pursuant to the section are civil penalties.

Clause 26 amends section 35 of the Act (winding up on petition of the Authority) to provide for the Authority to petition the Court for winding up of a designated insurance holding company in certain circumstances.

Clause 27 amends section 44A of the Act (rights of appeal) to provide that a “designated insurer” and “insurance group” can also appeal a decision of the Authority in the specified circumstances.

Clause 28 and the Schedule provide for consequential amendments to the Third and Fifth Schedules to the Bermuda Monetary Authority Act 1969.

Clause 29 provides for savings.

Clause 30 provides for transitional matters.

Clause 31 provides for commencement of the Bill.