

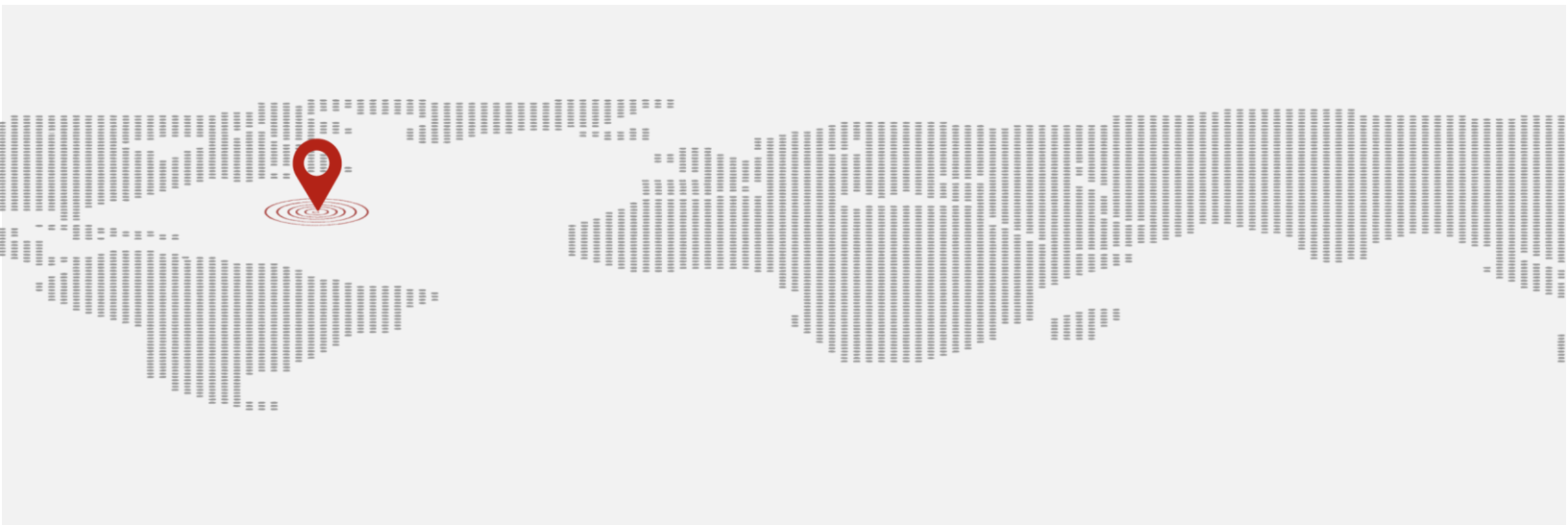


Wednesday, 3 June, 2026

CONSULTATION PAPER

Proposed Amendments to the Banks and Deposit Companies Act 1999

Comments to be received by 3 July 2026



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I. INTRODUCTION

1. This Consultation Paper (CP), together with the attached illustrative draft Banks and Deposit Companies Amendment Bill 2026, seeks feedback on proposals by the Bermuda Monetary Authority (Authority or BMA) for amendments to the Banks and Deposit Companies Act 1999 (BDCA or the Act).
2. The BDCA has served as the cornerstone of the legislative and regulatory framework for the local banking sector for the past 27 years. Since the Act became effective in 1999, it has undergone only limited updates. Over this time, the banking landscape has experienced significant changes both locally and globally, with new challenges, complexities and opportunities emerging in modern financial and banking services.
3. To ensure the Act remains effective and relevant in this evolving environment, it is necessary to enhance various provisions. A series of proposed amendments has been carefully developed with the aim of modernising and strengthening the regulatory framework, improving its enforceability, and aligning its standards with other BMA-administered Acts. These initial updates are intended to ensure that Bermuda's banking legislative and regulatory framework remains resilient, adaptive and equipped to meet the needs of stakeholders.
4. The enhancements proposed in this CP can be broadly categorised into four objectives as follows:

a. Enhancing Enforceability of Standards

It is proposed to strengthen the BMA's rulemaking powers and formalise minimum prudential and technical standards and statutory returns, which are currently outlined in guidance. These changes would establish enforceable standards and require statutory returns for both existing prudential reporting and new conduct reporting requirements. To ensure adaptability, provision will be made for licensees to apply for modifications, exemptions, or filing extensions, subject to an application fee. Additionally, proposed amendments would empower the BMA to impose, vary or revoke conditions on BDCA licensees' services, enabling more flexible and proactive regulatory oversight.

b. Operational Resilience and Outsourcing Code

In 2025, following public consultation, the BMA finalised its Operational Resilience and Outsourcing Code (Op Res Code) which applies to all BMA-supervised sectors and will take effect for BDCA licensees on 1 January 2027. To implement the Op Res Code, several amendments to the Act are proposed. A new 'Material Change in Business' section would require licensees to notify the BMA and obtain a 'no objection' before outsourcing important business services or entering into material outsourcing arrangements. Additionally, a 'Notification of Operational Resilience Impact Tolerance Threshold' would mandate licensees to inform the BMA within 24 hours of being made aware of any breach affecting operational resilience thresholds for key client-facing services. Lastly, Section 2 of the Act would be updated to include definitions related to the Op Res Framework, aligning the BDCA with the requirements of the Op Res Code.

c. Late Fees and Civil Penalties

Current penalties for late filings across BMA-administered Acts are inconsistent, with some scenarios exempt from penalties and others subject to significant civil fines, creating the potential for regulatory gaps and unequal accountability among institutions. Additionally, the current \$500,000 cap on civil penalties for non-filing breaches is inadequate given the systemic importance and scale of the banking sector. To address this, the BMA proposes introducing late fees for statutory returns and for audited financials. Breaches related to prudential or technical standards and failures to report Op Res tolerance breaches would remain subject to civil penalties. Another proposal is to increase the maximum penalty from \$500,000 to \$10 million for breaches of the Act that are not subject to a late fee to underscore the critical role and systematic importance of banking entities in maintaining a resilient financial system.

d. Alignment with Other BMA-Administered Acts

The BDCA contains outdated provisions on licence surrender and winding-up processes and does not consolidate fees payable by licensees, as annual licensing fees are governed by the separate Banks and Deposit Companies (Fees) Act 1975 (BDCA Fees Act). Proposed updates include renaming Section 16 from ‘Supervision Fees’ to ‘Fees’ to incorporate charges for late filings, extension applications, and exemption or modification requests. In addition, the BDCA Fees Act would be repealed, with the existing annual licensing fee being amalgamated with the BDCA’s existing supervision fee and simply referenced as an “annual fee” under this renamed section as well as in the Fourth Schedule of the Bermuda Monetary Authority Act 1969. Proposed changes to the Act would also allow the Authority to petition the court to wind up institutions that have surrendered licences, expanding beyond the current provision, which applies only to entities for which licences have been revoked. Additionally, the Authority is proposing to publicly Gazette the surrender of BDCA licences, rather than the current requirement to Gazette only licences that have been revoked.

5. Industry and other stakeholders are invited to provide feedback on the proposals outlined in this paper and its attachments by emailing their comments to policy@bma.bm by the close of business on **Friday, 3 July 2026**.

II. KEY PROPOSALS

Winding-up

6. The Authority proposes that the Act be amended to broaden the circumstances in which the BMA may present a petition to the court for the winding up of a company. The proposal removes the reference to a company whose licence is revoked and will also include the circumstances under which an undertaking has surrendered its licence.

Public Notification of Surrendered Licences

7. Currently, the BDCA requires the Authority to publish a notice in the Official Gazette for licences granted or revoked under the Act. However, there is no similar requirement for cases where a licence is surrendered voluntarily. The Authority proposes amending Section 24 by adding a new subsection that will require the BMA to publish a notice in the Gazette for every surrender of a licence, in a predetermined format.

Section 36A Amendments

8. Over time, the BMA has consulted on and subsequently implemented various iterations of prudential standards set forth by the Basel Committee on Banking Supervision. This includes standards related to capital, liquidity, large exposures, and leverage ratios, along with the adoption of suitable national discretions. The most recent of these standards is known as the Basel III framework, which came into force in January 2025 following public consultation.
9. Currently, Section 36A of the BDCA allows the BMA to issue Rules for the various statutory returns. However, the Act does not provide the power to establish minimum requirements for prudential or technical standards; these are currently outlined in various guidance notes.
10. The Authority proposes to modify Section 36A of the Act, aligning it with other legislative frameworks. Specifically, this adjustment will allow the BMA to issue Rules prescribing prudential and technical standards. This pertains to existing standards, intended to keep pace with the recent enhancements in its regulatory oversight, as detailed below:
 - a. Capital adequacy;
 - b. Liquidity;
 - c. Large exposures;
 - d. Annual returns of controllers, directors and senior executives; and
 - e. Statutory returns.
11. The BMA proposes amending Section 36A(4) to replace the current civil penalty for late or non-filing of statutory returns with a fixed late fee penalty of \$1,000 per week, or part thereof.
12. A further proposal would empower the Authority to grant, where appropriate, exemptions from, or modifications to, prudential standards or requirements upon application from a licensee. Consistent with other supervisory frameworks, such an application would be subject to a \$1,500 fee.

Rules for Statutory Returns

13. In line with the permissions set forth under the proposed amendment to Section 36A(2) of the Act, the BMA initially proposes the issuance of supporting statutory return Rules in 2026 as follows:
 - a. Banks and Deposit Companies (Monthly Statutory Returns) Rules 2026.
Comprising returns including:
 - i. Liquidity Coverage Ratio return.
 - b. Banks and Deposit Companies (Quarterly Statutory Returns) Rules 2026.
Comprising returns including:

- i. Basel III Prudential Information Return;
 - ii. Complaint Registers;
 - iii. Foreign Currency Exposure Return;
 - iv. Fraud Registers;
 - v. Credit Large Exposures Return; and
 - vi. Net Stable Funding Ratio Return.
 - c. Banks and Deposit Companies (Semi-Annual Statutory Returns) Rules 2026.
Comprising returns including:
 - i. Market Discipline (Pillar 3) Disclosures
 - d. Banks and Deposit Companies (Annual Statutory Returns) Rules 2026;
Comprising returns including:
 - i. Cyber Risk
14. The Authority proposes to allow licensees to apply for a grant of an extension of a filing deadline, subject to an application fee ranging between \$500 and \$1,000, depending upon the type of licence.
15. The Statutory Return Rules will stipulate requirements for licensees to submit reports on standardised templates, which will be posted on the BMA's website to ensure comparability and consistency.

Section 14(5A) Amendments

16. The Authority is proposing amendments to Section 14(5A) of the Act to expand its power to impose, vary or revoke conditions on all classes of licence issued pursuant to the Act, rather than this power being limited to restricted bank licences. This amendment aligns with powers in other supervisory frameworks that enable the BMA to apply conditions based on the nature, complexity and scale of a business. These changes will enhance the Authority's ability to manage risks, support financial stability and protect customers and market participants.
17. The proposed amendments will also give the Authority the right to revoke or alter any exemptions or modifications and take measures to protect the public or a licensee's clients as needed. In such cases, the licensee will be duly notified about the intended actions, any reasons for such changes, their right to respond, and ultimately, any decisions taken by the Authority.

Late Fees - Sections 36A and 47

18. The Act currently limits the Authority to imposing civil penalties on licensees for late filing of statutory returns or audited financial statements. While these penalties aim to ensure compliance, they are time-consuming and resource-intensive to apply and lack immediacy. To address this, it is proposed that fixed late fee penalties be introduced to streamline enforcement, encourage timely submissions and align with the Authority's objectives.
19. Civil penalties will still apply to breaches of prudential or technical standards and operational resilience tolerance breaches to address critical non-compliance effectively.

20. These proposed amendments align with other recent changes to BMA-administered Acts, which reflect broader efforts to enhance regulatory efficiency, improve enforcement and ensure compliance mechanisms remain effective and proportionate.

Section 49A Amendments

21. The Authority proposes amending Section 49A(1) to exclude late filings of statutory returns under Section 36A(3) and audited financial statements under Section 47(3) from being subject to civil penalties. These proposals would introduce late fees to address such instances of non-compliance.
22. Currently, Section 49A, 'Power to impose civil penalties for breach of requirements', allows the Authority to levy a civil penalty of up to \$500,000 for any breach, or breaches, of the BDCA. Under this proposal, the maximum penalty would be increased to \$10,000,000. The Authority considers this measure to be appropriate given the banking sector's systemic importance. This revision would also bring the BDCA in line with other supervisory frameworks administered by the BMA.
23. Relatedly, this proposed amendment will permit the Authority to levy civil penalties against licensees who breach any prudential or technical standard rule published under Section 36A(1).

The proposals outlined in paragraphs 10 to 23 seek to achieve consistency between provisions in the BDCA and comparable provisions in other BMA supervisory regimes as well as strengthen the legislative and regulatory framework for both current and prospective licensees, while empowering the Authority to take appropriate and proportionate action when necessary. It should be further noted that this CP does not propose any changes to existing prudential standards, large exposure requirements, or standardised reporting templates.

Material Change to Business

24. Unlike other supervisory frameworks, the BDCA currently does not require licensees to notify the Authority prior to making material changes to their business. Such changes may include entering an outsourcing arrangement for an important business service, introducing a new product or service, or making significant modifications to business plans. It is important that the Authority be informed of these events in advance, as they may have a direct impact on the licensee's operational resilience, risk profile and ability to meet regulatory obligations. The introduction of such a notification obligation will enable the Authority to assess and address potential risks proactively.
25. Given the above, the BMA proposes introducing a requirement for licensees to notify the Authority of the following events prior to entering into such arrangements and/or transactions:
- a. Any material change to the products and services outlined in section 14(5)(a) of the BDCA;
 - b. Outsourcing of an important business service or any material outsourcing of risk management, compliance or internal audit functions as well as the removal or replacement of an outsourcing service provider; and
 - c. Any material change to the most recent business plan submitted to the Authority.
26. A licensee may proceed with the proposed arrangement or transaction if the Authority issues a 'no objection' notification within 30 days of receiving the original notification and all required information, or if no response is provided by the Authority within this 30-day period. However, it

is important to note that the 30-day timeline will be paused if the Authority requests further information or the licensee fails to provide the required information.

27. Further to the previous paragraph, if a licensee has previously received a no-objection for the specified events but those events subsequently undergo substantial changes from the conditions under which they were initially issued a no-objection, such changes will be considered a 'material change in business'. In such cases, a licensee must also comply with the applicable statutory notification requirements.
28. If the Authority is considering an objection, it will issue a preliminary notice giving the Licensee 28 days to submit additional information or representations, which may influence the Authority's final decision.
29. In the event of an objection, the Authority will formally convey its reasons in writing.

Operational Resilience Reporting and Definitions

30. In September 2025, following public consultation, the Authority published its Operational Resilience Framework, effective for licensees from 1 January 2027. To support its implementation, amendments to the BDCA were identified to enforce reporting and notification obligations. These include requiring firms to notify the Authority and seek its no-objection before outsourcing important business services and to report breaches of resilience thresholds. Such notifications allow the BMA to assess risks, ensure appropriate safeguards, and mitigate disruptions, while also supporting consumer protection objectives.
31. The Op Res Framework mandates that all licensees establish at least one impact tolerance for each important business service, with Maximum Tolerable Period of Disruption as the minimum required metric. Further guidance on setting impact tolerances is available in Part XI of the Op Res Code. Additionally, the proposed change would require licensees to notify the BMA within 24 hours of becoming aware of a failure to maintain important business services within the set impact tolerance. A civil penalty would be applicable for failure to notify the Authority of any such breach.
32. Currently, the definitions for Op Res are in [Appendix A of the Operational Resilience and Outsourcing Guidance Notes](#). To implement the Op Res Framework, it is proposed to incorporate key definitions within the interpretation section of the BDCA, including:
 - i. Outsourcing;
 - ii. Outsourcing provider;
 - iii. Material outsourcing;
 - iv. Important business service; and
 - v. Operational resilience impact tolerance threshold.

Section 16 Amendments

33. Currently, the BDCA only requires licensees to pay an annual supervision fee under Section 16, as outlined in the Fourth Schedule of the BMA Act. It is proposed to rename the heading of Section 16 to “Fees” and remove all references relating to “supervision” fees under this section in order to

consolidate the legacy annual fee payable under the BDCA Fees Act with the legacy supervision fee payable under the BDCA into one annual fee sum.

34. In addition, to ensure alignment of the BDCA with other supervisory frameworks, the BMA proposes further amending Section 16 to incorporate the following fees:
- a. Late fees applicable for the late filing of statutory returns (Section 36A) and audited financial statements (Section 49A(1));
 - b. Fees associated with applications for an extension of filing deadlines under Section 36A(4);
 - c. Fees for exemptions or modifications of a prudential or technical standard under Section 36A(1);
 - d. Annual licensing fees as a consequence of the proposal to repeal the BDCA Fees Act; and
 - e. Fees for making an application for a licence (Section 13)

III. CONSEQUENTIAL AMENDMENTS

Bermuda Monetary Authority Act 1969 (BMA Act)

35. As a result of the proposed consolidation of existing fees and the introduction of new late and application for filing extensions fees within the Act, it is necessary to make consequential amendments to the Fourth Schedule of the BMA Act to reflect these changes.

Repeal of the Banks and Deposit Companies Act Fees Act 1975

36. Unlike other BMA-administered Acts, all fees payable by BDCA licensees are not entirely consolidated under the BDCA, as the annual licensing fee is governed by the separate BDCA Fees Act.
37. To remedy this misalignment, the Authority recommends that the BDCA Fees Act be repealed and that the annual licensing fees be incorporated into the Section 16 amendments with the corresponding fee amounts being consolidated under the Fourth Schedule of the BMA Act.
38. In addition, as the existing annual fee stated under the BDCA Fees Act is due on or before 31 January in every year it is proposed that the new amalgamated fee be aligned with the existing provisions under the BDCA and be due on or before 31 March.

IV. CONCLUSION

39. Please provide the Authority with your feedback on the presented proposals or any challenges you may envision with implementation by emailing your comments to policy@bma.bm by the close of business on **Friday, 3 July 2026**.

A BILL
entitled
BANKS AND DEPOSIT COMPANIES AMENDMENT ACT 2026

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BANKS AND DEPOSIT COMPANIES AMENDMENT BILL 2026

Consultation Illustrative Draft

WHEREAS it is expedient to amend the Banks and Deposit Companies Act 1999 to make provision for the enhancement of oversight by the Authority of deposit-taking business to better protect persons, including depositors, by strengthening requirements related to operational resilience; enhancing prudential requirements by expanding rule-making powers; increasing civil penalties; repealing the Banks and Deposit Companies (Fees) Act 1975 and consolidating and merging such fees with fees related to deposit companies under the Bermuda Monetary Authority Act 1969; providing for late fees for administrative filings; 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 Banks and Deposit Companies Act 1999 (the “principal Act”), may be cited as the Banks and Deposit Companies Amendment Act 2026.

Amends section 2

2 The principal Act is amended in section 2(1) by inserting in the appropriate alphabetical order the following—

“important business services” refers to a service which, if disrupted, could—

- (a) cause significant harm to the interests of any of its clients;
- (b) pose a risk to the interests of the public or the financial stability of Bermuda;

“large exposure” has the meaning described in section 38(1) and (2);

“late fee” means such fee payable for noncompliance with requirements as provided pursuant to section 16A;

“operational resilience impact threshold” refers to the maximum level of disruption to an institution’s client-facing important business services or functions (or any of them) that an institution can tolerate;”.

Amends section 13

3 The principal Act is amended in section 13(1)(a) by deleting the words “nature and scale” and substituting the words “nature, scale, complexity and risk-profile”.

Amends section 14

4 The principal Act is amended in section 14(5A) by deleting the words “subsection (5)(c)” and substituting the words “subsection (5)(a), (b) or (c)”.

Amends section 16

5 The principal Act is amended in section 16—

(a) by repealing the heading and substituting “Fees”;

(b) by repealing and replacing subsection (1) as follows—

“(1) An institution shall pay such fee as may be prescribed under the Bermuda Monetary Authority Act 1969—

(a) at the time of making an application under section 13;

(b) on the grant of a licence;

(c) annually, before 31 March in every year following the year in which it was licensed pursuant to section 14;

(d) at the time of making an application for exemption from, or modification of, prudential or technical rules or requirements under section 36C;

(e) at the time of making an application for an extension of a filing deadline under section 36D.”;

(c) in subsection (2) by deleting the word “supervision”.

Inserts section 16A

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

“Late fee payable for non-compliance

16A (1) This section applies to an institution that fails to comply with any time period specified under a requirement imposed on it under section 36A(4) or 47(3A), as the case may be.

(2) An institution, on failing to comply as provided in subsection (1), shall be liable to pay a late fee in accordance with the Fourth Schedule to the Bermuda Monetary Authority Act 1969.

(3) A late fee levied pursuant to this Act may be recovered by the Authority as a civil debt.”.

Repeals and replaces section 19

7 The principal Act is amended by repealing and replacing section 19 as follows—

“Winding up on petition from the Authority

19 (1) The Authority may present a petition to the court for the winding up of an institution which is operating or has been operating in contravention of any provision of this Act.

(2) On such a petition, the court may wind up an institution if the court is of the opinion that it is just and equitable that the institution be wound up.

(3) Part XIII (Winding Up) of the Companies Act 1981 shall apply to the winding up of an institution under this section.”.

Amends section 24

8 The principal Act is amended in section 24 by adding after subsection (3) the following—

“ (4) The Authority shall publish in the Gazette, in such form as it may think fit, notice of any surrender of a licence under this Act.”.

Inserts sections 35A, 35B and 35C

9 The principal Act is amended by inserting after section 35 the following—

“Notification of operational resilience impact threshold breach

35A An institution shall forthwith, and not later than 24 hours of the institution becoming aware of any breach of its operational resilience impact threshold, notify the Authority of such breach in such manner as the Authority may direct.

Notification of material change

35B (1) No institution shall effect a material change within the meaning of subsection (2) unless the requirements of subsection (3) have been satisfied.

(2) For the purposes of this section the following changes are material in relation to an institution—

- (a) change to any of the services set forth in section 14(5) that it provides;
- (b) outsourcing all or substantially all of its important business services, or its material functions including the functions of risk management, compliance or internal audit or the appointment, removal or replacement of an outsourcing service provider; or
- (c) change to its most recent business plan

submitted to the Authority.

(3) The requirements referred to in subsection (1) are that—

- (a) the institution has served on the Authority a notice in writing stating that the institution, intends to effect such a material change; and
- (b) either—
 - (i) the Authority has, before the end of the period of 30 days beginning with the date of service of that notice, notified the institution in writing that there is no objection to the institution effecting the material change; or
 - (ii) that period has elapsed without the Authority having served the institution with a written notice of objection to the material change.

(4)A notice under subsection (3)(a) shall contain such information as the Authority may direct and the Authority may after receiving such a notice from any person, by notice in writing require it to provide such additional information or documents as the Authority may reasonably require for deciding whether to serve notice of objection.

(5) Where additional information or documents are required from any person by a notice under subsection (4), the time between the giving of the notice and the receipt of the information or documents shall be added to the period mentioned in subsection (3)(b).”

Objection to material change

35C (1) The Authority shall serve a notice of objection under this section on a person who has given notice under section 35B(4) unless it is satisfied—

- (a) that the interests of clients or potential clients of the institution would not in any manner be threatened by the material change; and
- (b) without prejudice to paragraph (a) that, having regard to the material change the requirements of this Act would continue to be complied with or, if any of those requirements are not complied with, that the institution concerned is likely to undertake adequate remedial action.

(2) Before serving a notice of objection under this section the Authority shall serve the person concerned with a preliminary written notice stating that the Authority is considering service on that person of a notice of objection and that notice shall—

- (a) shall specify which of the matters mentioned in subsection (1) the Authority is not satisfied about and subject to subsection (5), the reasons for which it is not satisfied; and
- (b) shall give particulars of the rights conferred by subsection (3).

(3) A person served with a notice under subsection (2)—

- (a) may, within a period of 28 days beginning with the day on which the notice is served, make written representations to the Authority; and
- (b) where such representations are made the Authority shall take them into account in deciding whether to serve a notice of objection.

(4) A notice of objection under this section shall—

- (a) specify which of the matters mentioned in subsection (1) the Authority is not satisfied about and, subject to subsection (5), the reasons for which it is not satisfied; and

(b) give particulars of the rights conferred by section 30.

(5) Subsections (2)(a) and (4)(a) shall not require the Authority to specify any reason which would in its opinion involve the disclosure of confidential information, which would be prejudicial to a third party.”.

Amends section 36A

10 The principal Act is amended in section 36A—

- (a) in the heading, by repealing the heading and substituting the words “Prudential or technical standards;
- (b) in subsection (1) by deleting the words “statutory returns that must be made by institutions” and substituting the words “prudential or technical standards;
- (c) by repealing and replacing subsection (2) as follows—

“ (2) Without prejudice to the generality of subsection (1), Rules may prescribe prudential or technical standards in relation to—

- (a) capital adequacy;
- (b) liquidity;
- (c) large exposures;
- (d) annual returns of controllers and officers and senior executives;
- (e) statutory returns.

(2B) The Authority may in such Rules prescribe standards that impose different requirements to be complied with by institutions in different situations or in respect of different activities.

(2C) Audited financial statements and accounts shall be in a prescribed form and different forms of return may be prescribed for institutions holding different classes of licence.”;

- (d) in subsection (4), by deleting the words “a civil penalty not exceeding \$5,000 for each week or part of a week that it is in default” and substituting “a late fee”.

Inserts sections 36B, 36C and 36D

11 The principal Act is amended by inserting after section 36A the following—

“Returns

36B (1) Every institution shall prepare returns pursuant to section 36A and submit such returns at such periods in such form and containing such information as the Authority may determine.

(2) Every institution shall keep a copy of a return prepared in accordance with subsection (1) at the institution’s registered office or principal place of business for the period of five years commencing from the date of submission.

(3) Returns must be signed by any combination of two directors, senior executives or the chief executive of the institution.

Authority may exempt or modify prudential or technical standards

36C (1) The Authority may, where it has made a determination or on the application of an institution, exempt it from the requirement to comply with any prudential or technical standard, return or requirement applicable to it by or under Rules made under section 36A or modify any such prudential or technical standard applicable to it by or under Rules made under section 36A.

(2) In granting an exemption or modification under this section the Authority may impose such conditions on the exemption or modification as it considers appropriate.

(3) The Authority shall not grant an exemption or modification unless it is satisfied that it is appropriate to do so having regard to the nature, scale and complexity of the business conducted by the institution.

(4) The Authority may revoke an exemption or vary any modification granted under this section and shall serve notice on the institution of its proposal to revoke its approval and the reason for its proposal.

(5) An institution served with a notice under subsection (4) may within a period of 28 days from the date of the notice make written representations to the Authority and where such representations have been made, the Authority shall take them into account in deciding whether to revoke its approval.

(6) Without prejudice to its powers under subsection (1), the Authority where it has made a determination, may take any action necessary or desirable to protect the public, clients or potential clients of the institution where the Authority concludes that due to the nature, scale and complexity and risk profile of the institution, such action is necessary and in the interest of the

public or is required to be taken for the protection of clients or potential clients.

(7) Before taking any such action under subsection (6), the Authority shall serve notice on the institution giving its reasons therefor.

(8) An institution served with a notice under subsection (7) may, within a period of 28 days from the date of the notice, make written representations to the Authority; and where such representations are made, the Authority shall take them into account in deciding whether to take the proposed action.

(9) The Authority shall notify an institution of any actions it has taken.

Authority may extend certain time periods

36D (1) The Authority may on application from an institution in such form as the Authority may direct and made not less than five business days before the end of the specified time period, extend the specified time period within which certain information or documents must be filed by an institution.

(2) The Authority may grant or refuse to grant an extension under this section and may impose such conditions on the extension as the Authority considers appropriate.

(3) The Authority shall not grant an extension unless it is satisfied that it is appropriate to do so having regard to the reasons provided by the institution requesting the extension.

(4) In subsection (1), “specified time period” means the time period specified in section 36A(4) and 47(2).”.

Amends section 47

12 The principal Act is amended in section 47 by inserting after subsection (3) the following—

“(3A) An institution that fails to comply with subsection (3) shall be liable to a late fee.”

Amends section 49A

13 The principal Act is amended in section 49A—

(a) in subsection (1)—

- (i) by deleting the words “sections 16, and 36A” and substituting “sections 16, 36A and 47”;
- (ii) by deleting the word “penalty” and substituting the words “civil penalty”;

-
- (iii) by deleting “\$500,000” and substituting “\$10,000,000”;
 - (b) in subsection (3), by deleting the word “penalty” and substituting the words “civil penalty.”.

Amends Second Schedule

14 The principal Act is amended in the Second Schedule

- (a) in paragraph 4—
 - (i) in subparagraph (2)(a), by deleting the words “nature and scale” and substituting the words “nature, scale, complexity and risk-profile”;
 - (ii) in subparagraph (3)(a), by deleting the words “nature and scale” and substituting the words “nature, scale, complexity and risk-profile”;
- (b) in paragraph 6 by deleting the words “nature and scale” and substituting the words “nature, scale, complexity and risk-profile”.

Consequential amendments

15 The Schedule, which sets forth consequential amendments, has effect.

Repeal of the Banks and Deposit Companies (Fees) Act 1975

16 The Banks and Deposit Companies (Fees) Act 1975 is hereby repealed with effect from 1 January 2027.

Commencement

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

SCHEDULE (section 15)

CONSEQUENTIAL AMENDMENTS

Amends the Bermuda Monetary Authority Act 1969

The Fourth Schedule to the Bermuda Monetary Authority Act is amended under the heading ‘Banks and Deposit Companies Act 1999’—

(a) by inserting after paragraph 4 the following—

5	Late fee under section 36A(4) or 47(3A)	\$1,000 for every week or part thereof
6	Applying for extension of a filing deadline under section 36A(4) or 47(3A)—	
	(a) First month past filing deadline	\$1,000
	(b) Second month past filing deadline	\$1,000
	(c) Third month past filing deadline	\$1,000
7	Applying for exemption from or modification of a standard or requirement under section 36C	\$1,500

(b) by repealing and replacing, with effect from 1 January 2027, the fees related to the Banks and Deposit Companies Act 1999 as follows—

Banks and Deposit Companies Act 1999		
(with effect from 1 January 2027)		
1	Application for a licence pursuant to section 13(1)	\$50,000
2	Grant of a licence pursuant to section 14(1)(a)—	
	(a) On the grant of a licence to a bank	\$100,000
	(b) On the grant of a licence to a deposit company	\$2,500
3	Annual fee for banks pursuant to section 16—	
	(a) where the bank has consolidated gross assets (in all currencies) not exceeding \$1 billion	\$425,750

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	(b)	where the bank has consolidated gross assets (in all currencies) exceeding \$1 billion but not exceeding 2 billion	\$652,990
	(c)	where the bank has consolidated gross assets (in all currencies) exceeding \$2 billion but not exceeding \$5 billion	\$932,920
	(d)	where the bank has consolidated gross assets (in all currencies) exceeding \$5 billion but not exceeding \$10 billion	\$2,096,210
	(e)	where the bank has consolidated gross assets (in all currencies) exceeding \$10 billion	\$2,387,460
4	Annual fee for deposit company		\$20,000
	In paragraph 3 “consolidated gross assets” do not include assets accounted for in the consolidated financial statements of a subsidiary company, licensed separately under the Banks and Deposit Companies Act 1999.		
Annual fees in respect of paragraph 3 and 4 above are due on or before 31st March.			
5	Late fee under section 36A(4) or 47(3A)		\$1,000 for every week or part thereof
6	Applying for extension of filing deadline under section 36A(4) or 47(3A)—		
	(a)	First month past filing deadline	\$1,000
	(b)	Second month past filing deadline	\$1,000
	(c)	Third month past filing deadline	\$1,000
7	Applying for exemption from or modification of a prudential or technical rules or requirements under section 36C		\$1,500

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Banks and Deposit Companies Act 1999 (the “Act”) to make provision for the enhancement of oversight by the Authority of deposit-taking business to better protect persons, including depositors, by strengthening requirements related to operational resilience; enhancing prudential requirements by expanding rule-making powers; increasing civil penalties; repealing the Banks and Deposit Companies (Fees) Act 1975 and consolidating and merging such fees with fees related to deposit companies under the Bermuda Monetary Authority Act 1969; providing for late fees for administrative filings; and for purposes connected with and incidental to those matters.

Clause 1 provides for the title of the Bill.

Clause amends section 2 of the Act with respect to definitions for the interpretation of the Act including a definition of “operational resilience impact threshold”, “important business services”, “large exposures” and “late fee”.

Clause 3 amends section 13 of the Act to confirm that the section applies to an institution based on its nature, scale and risk-profile.

Clause 4 amends section 14 of the Act to provide for conditions to be applied in relation to all banks and deposit companies.

Clause 5 amends section 16 of the Act to include fees payable on an application for an exemption from or modification of prudential rules or requirements, and on an application for an extension of certain time periods or for variance of certain directions.

Clause 6 inserts section 16A in the Act to provide substantively for the late fee, which is payable where an institution fails to comply with certain requirements within the timeframe stipulated under certain sections. The late fee applicable with respect to a requirement shall be such fee as shall be set forth in the Fourth Schedule to the Bermuda Monetary Authority Act 1969. The new section 16A further empowers the Authority to recover any unpaid fee as a civil debt.

Clause 7 amends section 19 of the Act to remove revocation of a licence as a prerequisite to a winding-up petition to the Court.

Clause 8 amends section 24 of the Act to require notification to be provided where a licence is surrendered.

Clause 9 inserts sections 35A, 35B and 35C in the Act. Section 35A requires reporting of operational resilience impact breaches forthwith within 24 hours to the Authority. Section 35B requires notification of a

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material change and the Authority's no-objection. Section 35C provides the time frame for notices in respect of objections to be submitted to the Authority and for the Authority to respond to the same. Persons who receive a notice from the Authority under the new section 35C may also make representations to the Authority which the Authority must take into account in its determination.

Clause 10 amends section 36A of the Act enable the Authority to prescribe prudential and technical standards with respect to the matters listed in the section. These include rules relating to liquidity and capital requirements. Clause 10 also makes provision for the imposition of a late fee where an institution fails to file information or documents required by the clause within the specified time period.

Clause 11 inserts sections 36B, 36C and 36D in the Act. Section 36B requires institutions to prepare and submit returns at prescribed intervals, which may be annually, semi-annually, quarterly or monthly returns, as the case may be, in accordance such Rules as may be prescribed under section 36A. Section 36C provides for the Authority to modify or exempt institutions from the requirements of this Bill with respect to prudential or technical standards. Section 36C also empowers the Authority to take necessary or other actions in relation to the business or operations of an institution. Section 36D provides for applications to the Authority for extension of certain filing time periods under the Act.

Clause 12 amends section 47 of the Act to make provision for a late fee for non-compliance.

Clause 13 amends section 49A of the Act to confirm that penalties imposed under the section are civil penalties. Clause 16 also increases the maximum civil penalty that may be imposed on an institution to 10 million dollars.

Clause 14 amends the Second Schedule to the Act to confirm that the matters set forth therein will be based on the nature, scale, complexity and risk-profile of an institution.

Clause 15 and the Schedule provide for consequential amendments.

Clause 16 seeks to repeal the Banks and Deposit Companies (Fees) Act 1975.

Clause 17 provides for the Minister of Finance to bring this Bill into operation by notice published in the Gazette.