aswlaw

CYBER UNDERWRITING REPORT ISSUED BY BERMUDA MONETARY AUTHORITY – GUIDANCE FOR INSURERS RE CYBER RISK

On February 18, 2021, the Bermuda Monetary Authority (the "BMA") released its annual Bermuda Cyber Underwriting Report (the "Cyber Report"). While the main focus of the Cyber Report is cyber underwriting, it briefly mentions a few areas of convergence with operational cyber risk. The Cyber Report is based on the results of the BMA's analysis of the cyber underwriting information provided in the 2019 annual filings for commercial (re)insurers (Classes 3A, 3B, 4, C, D and E), groups and limited purpose (re)insurers (Classes 1, 2, 3, A and B). The Cyber Report outlines statistics, findings and general recommendations regarding cyber underwriting and, to a lesser extent, operational cyber resiliency.

As the cyber insurance market and the cyber threat landscape continues to change, in the Cyber Report the BMA has highlighted the following areas it expects insurers to cover:

(a) **Identification, measurement, quantification, monitoring and mitigation of non-affirmative cyber risk exposures.** The BMA expects insurers to "implement appropriate and adequate systems in place to identify, measure, quantify, mitigate and monitor non-affirmative cyber risk exposures" due to their concern that "insurers may be unaware of the magnitude and nature of their full cyber exposures." The board of directors must have a "deeper understanding of non-affirmative cyber exposures to serve as a basis for its strategy formulation concerning this area."

(b) **Management of tail risk.** Given the challenges of modelling cyber risk, particularly with regard to low probability but high severity events, and the measurement of non-affirmative cyber risk exposures, insurers may find it difficult to manage exposures. It is the expectation of the BMA that insurers "conduct stress and scenario testing for various degrees of both affirmative and non-affirmative exposures and assess the results therein for proper mitigation measures."

(c) **Modelling of cyber risk.** Considering the "evolving nature of cyber risk and the lack of readily available historical data for use in predicting cyber losses", insurers are expected to "take appropriate steps to mitigate the uncertainties associated with modelling cyber risks." The aforementioned steps "must be documented and appropriately adjusted in a timely manner to reflect material changes in circumstances". Carriers should "implement robust model validation processes to ensure the appropriateness and usefulness of their models."

As “next steps”, the BMA has indicated that it will:

- require commercial insurers and groups to disclose more explicitly in their Commercial Insurer Solvency Self-Assessment (“CISSA”) and Group Solvency Self-Assessment (“GSSA) filings how they are managing both affirmative and non-affirmative cyber exposures;
- require insurers to establish appropriate policies and procedures for the identification, measurement, monitoring and mitigation of cyber insurance risk exposures;
- require insurers to clarify whether cyber coverage is provided or not, in non-cyber policies, either by having clear exclusion language or adding the necessary endorsements, beginning at the January 2022 renewal - in their CISSA/GSSA 2021 year-end filings for 2021, commercial insurers and groups will be required to document their progress;
- continue to enhance supervisory frameworks and assess each company’s affirmative cyber underwriting practices as the market gains more understanding for this line of business;
- continue to engage with rating agencies and vendor model providers to understand how models adapt to deal with challenges related to cyber risk underwriting; and
- continue to enhance the cyber underwriting schedule in the Financial Year End filing returns on both affirmative and non-affirmative cyber exposures.

Please contact ASW should you have any further questions.

ASW Law Limited

Neil Horner,
Head of Corporate
neil.horner@aswlaw.com

Kim Willey,
Senior Counsel (Consultant)
kim.willey@aswlaw.com

Hanno Tolhurst,
Counsel
hanno.tolhurst@aswlaw.com

Paige Gell,
Pupil Attorney
paige.gell@aswlaw.com