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To: All Media

**FOR IMMEDIATE RELEASE**

**ICO publishes Decision 08/2020, Bermuda Monetary Authority**

Hamilton, Bermuda. On 24 August 2020, Information Commissioner Gitanjali Gutierrez issued [Decision 08/2020, Bermuda Monetary Authority \(BMA\)](#), involving a PATI request for records related to the BMA's staff recruitment plans. The BMA refused access to the responsive records under section 37(1) of the PATI Act, because, in its view, disclosure of these records is prohibited by section 31(1) of the BMA Act 1969. The BMA further relied on section 38(1) of the PATI Act to refuse to confirm the existence or non-existence of a record responsive to the PATI request specifically related to its recruitment plan, analysed by the additional staff's Bermudian or non-Bermudian status.

The Information Commissioner upheld the BMA's decision to withhold the responsive records under section 37(1) of the PATI Act. She agreed that disclosure of the records being sought by the Applicant is prohibited by the BMA Act, because they were received by the BMA as part of its exercise of its statutory duty to regulate financial institutions. The Information Commissioner also found that the BMA was not justified in refusing to confirm the existence or non-existence of a record related to its recruitment plan, analysed by the additional staff's Bermudian or non-Bermudian status. The Information Commissioner ordered the BMA to disclose the existence or non-existence of a responsive record and process this part of the request in accordance with the provisions of the PATI Act.

The Information Commissioner emphasised that her Decision does not confirm whether the Bermudian and non-Bermudian analysis record exists. Although agreeing with the BMA that a record, if it exists or were to exist, is or would be exempt under section 37(1) of the PATI Act, the Information Commissioner is of the view that there is a strong public interest for the BMA to confirm whether the record actually exists or does not exist. In her Decision the Information Commissioner states that "[t]he question of a Bermudian analysis in the recruitment and succession plan for any public authority is a topic of widespread public discussion and impact, particularly with respect to critical public authorities such as the BMA ... there is a strong public interest in knowing whether records concerning a Bermudian analysis exist or do not exist as part of the BMA's analysis of its staffing needs, recruitment and succession planning."

[Decision 08/2020](#) can be accessed online at [www.ico.bm](http://www.ico.bm).

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Editor's Notes:

The ICO is providing services to the public and other stakeholders during regular business hours. The ICO can be reached by visiting our offices at Maxwell Roberts Building, 4<sup>th</sup> Floor, One Church Street, Hamilton, or by calling 543-3700 or emailing [info@ico.bm](mailto:info@ico.bm).

The Information Commissioner's Office is an independent public office responsible for promoting the use of and overseeing compliance with the Public Access to Information (PATI) Act 2010. The PATI Act gives the public a right to access records held by public authorities, subject to listed exemptions and administrative grounds for denial of access. Individuals who are dissatisfied with the response of a public authority may seek a review by the Information Commissioner. The Information Commissioner shall investigate and the decisions by the Information Commissioner are legally binding.

Further information about the Information Commissioner's Office is available at [www.ico.bm](http://www.ico.bm).