

Administration of the Act

Legislation

The insurance industry in Malaysia is governed by the Insurance Act 1996 (Act) which came into force on 1 January 1997. The Act is supplemented by the Insurance Regulations 1996 (Regulations) which prescribe the details of mandatory requirements contained in certain provisions of the Act. In addition, the Act empowers Bank Negara Malaysia (the Bank) to specify matters pursuant to the provisions of the Act.

Amendments to the Act and Regulations

In 2005, the Act was amended for the first time since its enactment to put in place the legislative licensing framework for financial advisers (FAs) in Malaysia. The amendments, which set out among others, the form of establishment and type of activities that could be undertaken by FAs, came into effect in August 2005 with the gazetting of the Insurance (Amendment) Act

the investment limits for credit facilities for life insurance funds and included property-related investments in the admitted assets framework. These revisions are set out in greater detail in Chapter 2.

Exemptions

Section 198 of the Act empowers the Minister of Finance to exempt a person or class of persons from all or any of the provisions of the Act if he considers it consistent with the purposes of the Act or in the interest of the public. In 2005, the Minister approved the exemption of Export-Import Bank of Malaysia Berhad (EXIM), a development bank owned by the Minister of Finance (Incorporated), from the requirement to be licensed under the Act for the purposes of carrying on export credit and other credit guarantee insurance business. The exemption was provided to EXIM in view of its merger with Malaysian Export Credit Insurance Berhad (an entity previously excluded from the requirements of the Act).

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2005. Subsequently, in October 2005, the Regulations were amended via the Insurance (Amendment) Regulations 2005 to prescribe the minimum capital requirements and licensing fees for FAs.

Specifications

Section 46(2) of the Act requires an insurer to maintain assets used to support its margin of solvency in a manner specified by the Bank. In 2005, revisions were made to existing assets specifications to provide insurers with greater investment flexibility. The revisions extended the definition of low risk assets to include specific investments by insurers, increased

Licensing and Market Structure

Licensing of Insurers, Insurance Brokers and Adjusters

As at 31 December 2005, a total of 49 insurers were licensed under the Act as follows:

- 26 insurers carrying on direct general insurance business;
- seven insurers carrying on direct life insurance business;
- nine insurers carrying on direct life and general insurance business;
- five professional reinsurers carrying on general reinsurance business;
- one professional reinsurer carrying on life

Table 1.1
Number of Licensees

As at end of December	2004	2005
Direct insurers		
<i>Malaysian-incorporated</i>	40	40
<i>Foreign-incorporated</i>	2	2
Sub-total	42	42
Professional reinsurers		
<i>Malaysian-incorporated</i>	2	2
<i>Foreign-incorporated</i>	5	5
Sub-total	7	7
Total insurers	49	49
Insurance brokers	34	34
Adjusters	37	36

reinsurance business; and

- one professional reinsurer carrying on life and general reinsurance business.

The total number of licensees in the insurance industry as at the end of 2005 stood at 119, comprising 49 insurers, 34 brokers and 36 adjusters as shown in Table 1.1. The lists of licensed insurers and reinsurers, insurance brokers and adjusters are given in Appendices II, III and IV to this Report.

Agents

Although agents are not directly supervised by the Bank, they are required to be registered with the mandatory insurance associations under the Act, namely, the Life Insurance Association of Malaysia for life insurance agents and Persatuan Insurans Am Malaysia for general insurance agents. To ensure a minimum level of professionalism among the agency force, the minimum entry requirement for a new agent was raised to the Sijil Pelajaran Malaysia (Malaysia Certificate of Education) qualification or its equivalent. In addition, all agents are required to pass the compulsory Pre-Contract Examination for Insurance Agents (PCEIA) conducted by the Malaysian Insurance Institute.

There were 126,898 (2004: 131,229) registered insurance agents as at the end of 2005. The number of life insurance agents decreased by 4.5% to 78,810 (2004: 82,551) while the number of general insurance agents decreased by 1.2% to 48,088 (2004: 48,678).

Table 1.2
Number of Branches

	Insurers	Insurance Brokers	Adjusters
Approved in 2005	11	2	15
Operating as at 31 December 2005	720	27	144

Change of Company Status

Section 14 of the Act requires all licensed insurers (other than foreign professional reinsurers which are allowed to operate as branches in Malaysia) to be incorporated as public companies under the Companies Act 1965. During the year, there were no changes effected in the status of licensed direct insurers pursuant to this section. The list of foreign insurers which have restructured into Malaysian-incorporated insurers since 1975 is given in Appendix V.

Offices of Licensees

Section 36 of the Act requires a licensee to obtain the prior written approval of the Bank to establish an office in or outside Malaysia. In 2005, a total of 28 branch offices were approved. Due to the rationalisation of some existing branches and the delay in opening some approved branches, the total number of branch offices operating as at end 2005 remained unchanged at 891 (Table 1.2).

Changes in Equity

Section 18 of the Act requires a Malaysian-incorporated licensee to maintain a minimum paid-up capital as prescribed by the Bank. Licensed foreign-incorporated insurers are required to maintain a corresponding surplus of assets over liabilities in Malaysia. The current

Table 1.3
Distribution of Paid-up Capital of Malaysian-incorporated Insurers

As at end of December	2004		2005	
	RMm	%	RMm	%
Held by Malaysians	2,811.5	57.6	2,908.8	57.5
<i>Bumiputera</i>	1,383.2	28.3	1,565.6	30.9
<i>Non-Bumiputera</i>	1,428.3	29.3	1,343.3	26.6
Held by non-Malaysians	2,068.4	42.4	2,151.1	42.5
Total	4,879.9	100.0	5,059.9	100.0

Table 1.4
Distribution of Paid-up Capital
of Insurance Brokers

As at end of December	2004		2005	
	RMm	%	RMm	%
Held by Malaysians	42.2	94.6	45.5	94.6
<i>Bumiputera</i>	33.5	75.1	36.2	75.3
<i>Non-Bumiputera</i>	8.7	19.5	9.3	19.3
Held by non-Malaysians	2.4	5.4	2.6	5.4
Total	44.6	100.0	48.1	100.0

minimum paid-up capital/surplus of assets over liabilities prescribed are as follows:

- RM100 million for local/foreign direct insurers and local professional general reinsurers;
- RM50 million for local professional life reinsurers; and
- RM20 million for foreign professional life and general reinsurers.

The insurance brokers and adjusters are required to maintain a paid-up capital unimpaired by losses of RM500,000 and RM150,000 respectively.

As at the end of 2005, the total capitalisation of Malaysian-incorporated insurers increased by 3.7% to RM5,059.9 million (2004: RM4,879.9 million) (Table 1.3). The increase was attributed to the increase in the paid-up capital of two insurers, including a reinsurer which underwent a corporate restructuring exercise during the year. Correspondingly, the average capitalisation of Malaysian-incorporated insurers also increased to RM120.5 million (2004: RM116.2 million).

Table 1.5
Distribution of Paid-up Capital of Adjusters

As at end of December	2004		2005	
	RMm	%	RMm	%
Held by Malaysians	13.3	92.4	11.9	85.0
<i>Bumiputera</i>	6.5	45.2	6.2	44.3
<i>Non-Bumiputera</i>	6.8	47.2	5.7	40.7
Held by non-Malaysians	1.1	7.6	2.1	15.0
Total	14.4	100.0	14.0	100.0

Table 1.6
Shareholders' Equity of
Malaysian-incorporated Insurers

As at end of December	2004	2005
	RM million	
Paid-up capital	4,879.9	5,059.9
Retained profit	3,514.4	4,091.5
Other reserves	565.3	479.9
Total	8,959.6	9,631.3

As at the end of 2005, the total paid-up capital of licensed insurance brokers increased by 7.8% to RM48.1 million (2004: RM44.6 million) (Table 1.4) while the total capitalisation of licensed adjusters declined by 2.8% to RM14 million (2004: RM14.4 million) (Table 1.5). The increase in the total paid-up capital of insurance brokers was largely attributed to capital injection by several insurance brokers to meet the RM0.6 million minimum paid-up capital requirement to qualify for a takaful broking licence.

The retained profits of Malaysian-incorporated insurers stood at RM4,091.5 million prior to the declaration of dividends by insurers with financial years ending in December, while the shareholders' funds stood at RM9,631.3 million (Table 1.6).

Margin of Solvency

Part IX of the Regulations prescribes the margin of solvency required to be maintained by licensed insurers for each class of insurance business as follows:

- for life insurance business, the aggregate of a specified percentage of the actuarial valuation liabilities, sums at risk and net premiums on all life policy extensions, plus total liabilities of the life insurance fund determined at the end of the financial year; and
- for general insurance business, the aggregate of a specified percentage of claims or net premiums, plus total liabilities of the general insurance fund determined at the end of the financial year.

Table 1.7
Solvency Surplus

As at Financial Year End	General Insurance Fund		Life Insurance Fund		Shareholders'/ Working Fund ¹		Total	
	2003	2004	2003	2004	2003	2004	2003	2004
	RM million							
Margin of solvency	14,135.6	14,376.1	54,728.2	60,347.9	n.a.	n.a.	68,863.8	74,724.0
Admitted assets	15,617.7	16,410.2	58,509.0	65,591.7	810.7	90.4	74,937.4	82,092.3
Solvency surplus							6,073.6	7,368.3

¹ Assets can be assigned from the shareholders'/working fund with the prior approval of the Bank to meet the solvency margin requirement
n.a. Not applicable

The computed amount derived in the manner described above for each class of business is subject to a minimum amount of RM50 million in the case of licensed direct insurers and locally-incorporated professional reinsurers, and RM10 million in the case of branches of foreign professional reinsurers. Assets supporting the margin of solvency must be in the form of admitted assets specified by the Bank.

The combined aggregate solvency surplus (admitted assets in excess of the required margin of solvency) of the industry increased by 21.3% to RM7,368.3 million for the financial year end for the period from 1 July 2004 to 30 June 2005 (Table 1.7). A total of three insurers transferred or assigned assets from their shareholders' funds to meet the margin of solvency requirement. One insurer which experienced solvency deficiency during the period is in the process of rectifying the shortfall via a transfer of business. The insurer however, has sufficient assets to meet the liabilities of its insurance business.

Supervision of Licensees

Throughout the year, supervisory activities were aimed at further promoting the stability of insurance industry in tandem with the evolving and increasing complexities of the financial landscape. Ongoing off-site surveillance and on-site examinations were conducted based on the newly enhanced risk-based supervisory framework which focuses supervisory attention and allocates resources according to the risk profile of the institutions. Using this

methodology, pre-emptive actions can be taken to ensure the supervised entity takes timely appropriate measures to mitigate its risks.

While supervisory attention had been placed on the assessment of the supervised entities' risk profiles, the Bank continuously assesses and evaluates the corporate governance practices of the supervised entities to ensure good standards of practices in all aspects of their operations. This was further complemented by regular dialogues with the boards of directors and management of supervised entities. The aim is to encourage supervised entities to undertake regular self-evaluation of risk profiles, develop alternative options and formulate plans to manage, as well as to mitigate the identified risks.

The oversight by the Bank also focused on evaluating the effectiveness of the board of directors and senior management in performing their roles towards enhancing the supervised entities' capacities and capabilities to face future challenges.

To further promote healthy market practices, to ensure that the rights of policy owners and the public are adequately protected, the Bank continued to enhance its market conduct surveillance. A series of market conduct examinations had been conducted on a number of critical areas. In addition, the Bank also focused on enhancing its market conduct supervisory framework in line with the standards set by the International Association of Insurance Supervisors.

With respect to insurance fraud, the Bank continued its collaborative effort with the insurance industry and relevant law enforcement agencies through various initiatives under the anti-fraud joint committees. The focus of the committees include amongst others, sharing of anti-fraud tips and exchange of information among members, regular dialogues and discussions as well as training. A fraud surveillance system had been implemented to monitor incidences of fraud. This facilitated the identification and sharing of new and emerging modus operandi of fraud to prevent further occurrences and loss to insurers and policy owners.

Another area given a greater emphasis was the assessment of anti-money laundering and counter-financing of terrorism (AML/CFT) measures taken by the supervised entities. The Bank had undertaken a review of the adequacy of AML/CFT measures instituted by the supervised entities especially on five broad functional areas namely, quality of board and senior management oversight, comprehensiveness of policies and procedures, effectiveness of internal controls, adequacy and accuracy of the management

information system, as well as the quality of human resources.

Recognising the increasing challenges and complexities facing the supervisors, the Bank had continued to pursue on capacity building to ensure that the knowledge and skills of the supervisors are continually enhanced to meet the demands of an increasingly sophisticated financial landscape.

Compounding of Offences

Section 211(1) of the Act empowers the Governor of the Bank to compound an offence under the Act or Regulations. In 2005, fines were imposed on eight licensees (Table 1.8) for the following offences:

- non-compliance with the Cash-Before-Cover requirements for motor insurance

**Table 1.8
Compounding of Offences**

Nature of Offence	Number of Licensees Fined
Contravention of:	
Section 141(1)	7
Section 74(1)	1

which prohibit insurers from assuming risks in respect of motor insurance policies before receiving the respective premiums; and

- appointment of an external auditor without the prior approval of the Bank.

Public Complaints

The Customer Service Bureau (CSB) in the Bank serves to provide the public with an avenue to direct complaints and enquiries on insurance matters. The CSB liaises with the industry and the relevant associations to resolve complaints against licensees. In addition, the CSB analyses

the emerging trends of complaints received for the purpose of identifying emerging developments in insurance practices that may require regulatory attention.

In 2005, the CSB handled a total of 2,628 complaints, an increase of 10.6% from 2,376 complaints received in 2004. As in the previous years, motor insurance remained as the sector with the highest number of complaints accounting for 51.8% (2004: 50.7%) of total number of complaints received. The main complaints included delay in processing claims, dissatisfaction with the sum of settlement, repudiation of liability and delay in response to enquiries. Complaints relating to life insurance in 2005 totalled 696, an increase of 43.5% from 485 complaints received in 2004. The bulk of the complaints was related to the conduct of agents and repudiation of liability.

The Bank continues to enhance market conduct surveillance to further promote healthy market practices.

The Financial Mediation Bureau (FMB), which was created through the merger of the Bank Mediation Bureau and the Insurance Mediation Bureau (IMB) in late 2004, is another avenue for the public to resolve disputes or complaints against insurers. The FMB, which began operations in January 2005, handled a total of 1,326 insurance cases during the year compared with 1,105 insurance cases handled by IMB in 2004. A total of 66.7% (2004: 55.8%) of the cases were related to general insurance. The most common complaints handled by FMB were related to personal accident/disability and hospitalisation/medical insurance policies.

Insurance Guarantee Scheme Fund

Section 173(1) of the Act empowers the Bank to establish and maintain a separate insurance guarantee scheme fund (IGSF) for general business and life business in respect of Malaysian policies for the purpose of partially meeting the liabilities of any insolvent insurer. The IGSF, which is managed in accordance with Part XIV of the Act, is funded mainly from levies imposed on licensed insurers. Under the Act, other sources of remittances into the IGSF include income from investments of the fund, proceeds from the realisation of investments, dividends assigned from claimants in return for payments received from the IGSF and 50% of fines collected from the

compounding of offences committed by licensed insurers under the Act.

Currently, levies are imposed only for general insurance business. The total collection of levies for the year 2005 based on 0.25% of gross direct premiums amounted to RM21.8 million (2004: RM20.6 million). During the year, the IGSF for general insurance business also received income of RM32.5 million as a result of the assignment of dividends declared by the liquidator of Mercantile Insurance Sdn. Bhd. (MISB). The IGSF accumulated to a sum of RM609.3 million as at 31 December 2005 (2004: RM534.3 million). Although no levies are currently imposed for life insurance business, fines collected for offences related to life insurance business are credited into the IGSF for life insurance business. As at 31 December 2005, the amount in the IGSF for life insurance business stood at RM0.5 million.

Insurance claims in respect of three liquidated insurers, namely, First General Insurance (M) Sdn. Bhd. (FGI), SEG Insurance Sdn. Bhd. (SEG) and MISB are payable from the IGSF for general insurance business. During the year, payments amounting to RM1.4 million were made from the IGSF for the settlement of 171 claims against MISB. The total cumulative payments made to date from the IGSF for general insurance business are shown in Table 1.9.

Table 1.9
IGSF: Compensation and Expenses

	FGI		SEG		MISB		Total	
	2004	2005	2004	2005	2004	2005	2004	2005
	RM'000							
Amount settled to date								
Judgement awards	4,856	4,856	11,326	11,326	67,477	67,771	83,659	83,953
Out-of-court settlements	1,295	1,295	517	517	117,090	117,916	118,902	119,728
Expenses: MIB (Administrative Unit)	269	269	–	–	–	–	269	269
Professional charges	763	763	–	–	–	–	763	763
Premium refunds	–	–	–	–	1,977	1,977	1,977	1,977
Deposit refund (bond)	–	–	–	–	409	409	409	409
Others ¹	8	8	–	–	11,702	11,951	11,710	11,959
Total	7,191	7,191	11,843	11,843	198,655	200,024	217,689	219,058
% change	–	–	–	–	2.5	0.7	2.3	0.6
No. of cases settled in the year	–	–	–	–	605	171	605	171
No. of cases settled to date	883	883	1,227	1,227	46,530	46,701	48,640	48,811

¹ Refer to solicitors' and adjusters' fees