

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 (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.

Specifications

In 2003, insurers were given further flexibility in terms of investments which are admissible (admitted assets) for the purpose of supporting the margin of solvency. The Bank, pursuant to section 46(2) of the Act, specified the following:-

- (i) increase in the limit of aggregate investments in unsecured credit facilities from 30% to 40% of an insurer's margin of solvency;
- (ii) increase in the limit of aggregate investments in secured and unsecured credit facilities from 40% to 50% of an insurer's margin of solvency; and
- (iii) deposits placed with development financial institutions which are regulated under the Development Financial Institutions Act 2002 and investments in deposits linked to derivatives are allowed as admitted assets under the category of 'cash and deposits', subject to specified conditions and sub-limits.

The Bank, pursuant to section 95(1) of the Act, has also provided flexibility to insurers to publish an abridged format of their financial statements in the newspapers with the condition that the full text of financial statements are made available in the respective insurers' website. In addition, insurers are also given the option to exhibit their annual accounts either in the form as published in the newspapers or the full annual

report, in a conspicuous position at each of their offices.

Licensing and Market Structure

Licensing of Insurers, Insurance Brokers and Adjusters

As at 31 December 2003, a total of 53 insurers were licensed under the Act compared with 54 at the end of 2002. The reduction in the number of licensed insurers was the result of a merger completed during the year. During the year, two foreign professional reinsurers, namely Gerling-Konzern Globale Ruckversicherungs-Aktiengesellschaft and HSB Engineering Insurance Limited withdrew from Malaysia following the rationalisation of their global operations. Another reinsurer, Cologne Reinsurance Company Plc., transferred its business to the Labuan International Offshore Financial Centre (IOFC). The 53 insurers licensed under the Act as at end December 2003 include:-

- 27 insurers in direct general insurance business
- seven insurers in direct life insurance business
- nine insurers in direct life and general insurance business
- eight professional reinsurers in general reinsurance business
- one professional reinsurer in life reinsurance business
- one professional reinsurer in life and general reinsurance business

The total number of licensees in the insurance industry as at the end of 2003 stood at 127, comprising 53 insurers, 35 brokers and 39 adjusters as shown in Table 1.1. The lists of licensed insurers and reinsurers, insurance brokers and adjusters are given respectively in Appendices II, III and IV of this Report.

Agents

Agents are not directly supervised by the Bank under the Act, but are required to be registered with the mandatory insurance associations approved by the Bank, namely, the Life Insurance Association of Malaysia for

Table 1.1
Number of Licensees

As at end of December	2002	2003
Direct insurers		
<i>Malaysian-incorporated</i>	42	41
<i>Foreign-incorporated</i>	2	2
Sub-total	44	43
Professional reinsurers		
<i>Malaysian-incorporated</i>	2	2
<i>Foreign-incorporated</i>	8	8
Sub-total	10	10
Total insurers	54	53
Insurance brokers	35	35
Adjusters	40	39

life insurance agents and Persatuan Insuran Am Malaysia for general insurance agents. A person intending to be a registered agent is required to pass the compulsory Pre-Contract Examination for Insurance Agents (PCEIA) conducted by the Malaysian Insurance Institute. As part of efforts to further enhance the level of professionalism among the agency force, the minimum entry requirement for a new agent has been raised to Sijil Pelajaran Malaysia or Malaysia Certificate of Education qualification or its equivalent qualifications with effect from 1 April 2003 for general insurance agents and 1 September 2003 for life insurance agents.

There were 141,328 (2002: 138,522) registered insurance agents at the end of 2003. The number of life insurance agents decreased to 86,230 (2002: 87,205) while the number of general insurance agents increased to 55,098 (2002: 51,317).

Change of Company Status

Section 14 of the Act requires all licensed insurers (other than professional reinsurers which are allowed to operate as branches in Malaysia) to be incorporated as public companies under the Companies Act 1965. As at the end of 2003, all licensed direct insurers, with the exception of two foreign insurers, had been incorporated locally. The list of foreign insurers which have restructured into Malaysian-incorporated insurers since 1975 is given in Appendix V.

Table 1.2
Number of Branches

	Insurers	Insurance Brokers	Adjusters
Approved in 2003	17	1	15
Operating as at 31 December 2003	720	28	133

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. The criteria for opening of branch office include compliance with the minimum paid-up capital and solvency requirements as well as the guidelines on operating costs. In 2003, a total of 33 branch offices were approved. As a result of the rationalisation of some existing branches and the delay in opening of some approved branches during the year, the total number of branch offices operating as at end of 2003 was 881 (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 insurers are required to maintain a corresponding surplus of assets over liabilities in Malaysia. The current 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

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

As at end of December	2002		2003	
	RMm	%	RMm	%
Held by Malaysians	2,897.5	59.3	2,892.2	59.2
<i>Bumiputera</i>	1,420.3	29.1	1,461.5	29.9
<i>Non-Bumiputera</i>	1,477.2	30.2	1,430.7	29.3
Held by non-Malaysians	1,989.4	40.7	1,992.9	40.8
Total	4,886.9	100.0	4,885.1	100.0

Table 1.4
Distribution of Paid-up Capital
of Insurance Brokers

As at end of December	2002		2003	
	RMm	%	RMm	%
Held by Malaysians	41.6	95.0	41.8	95.0
<i>Bumiputera</i>	34.2	78.1	34.4	78.2
<i>Non-Bumiputera</i>	7.4	16.9	7.4	16.8
Held by non-Malaysians	2.2	5.0	2.2	5.0
Total	43.8	100.0	44.0	100.0

- RM20 million for foreign professional life and general reinsurers

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 2003, one insurer had yet to comply with the minimum capital requirement, pending the completion of its merger exercise with another insurer.

Although three insurers had increased their paid-up capital, there was a marginal reduction in capitalisation due to the merger of two insurers. The total capitalisation of Malaysian-incorporated insurers was RM4,885.1 million (2002: RM4,886.9 million) as at 31 December 2003 (Table 1.3). The average capitalisation of Malaysian-incorporated insurers however increased by 2.3% to RM113.6 million (2002: RM111.1 million).

As at the end of 2003, the total paid-up capital of licensed insurance brokers increased marginally to RM44 million. The total

Table 1.5
Distribution of Paid-up Capital of Adjusters

As at end of December	2002		2003	
	RMm	%	RMm	%
Held by Malaysians	12.5	88.0	12.2	85.9
<i>Bumiputera</i>	6.7	47.2	6.5	45.8
<i>Non-Bumiputera</i>	5.8	40.8	5.7	40.1
Held by non-Malaysians	1.7	12.0	2.0	14.1
Total	14.2	100.0	14.2	100.0

Table 1.6
Shareholders' Equity of
Malaysian-incorporated Insurers

As at end of December	2002	2003
	RM million	
Paid-up capital	4,886.9	4,885.1
Retained profit	2,359.9	3,484.3
Other reserves	516.2	542.6
Total	7,763.0	8,912.0

capitalisation of licensed adjusters remained at RM14.2 million as in 2002. The distribution of paid-up capital of insurance brokers and adjusters are shown in Table 1.4 and Table 1.5 respectively.

As at the end of 2003, the retained profits of the industry increased by 47.6% to RM3,484.3 million. In total, the shareholders' equity of Malaysian-incorporated insurers increased by 14.8% to RM8,912 million in 2003 (Table 1.6). The average shareholders' equity of Malaysian-incorporated insurers increased to RM207 million (2002: RM176.4 million).

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.

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 (assets in excess of the required margin of solvency) of the industry increased significantly by 96% to RM6,592.7 million for the financial year ended 2002/2003 (Table 1.7). A total of 11 insurers transferred or assigned assets from their shareholders' funds to meet the admitted assets requirement.

Examination of Licensees

In 2003, the Bank conducted commercial examinations on 25 head offices and 16 branch offices of insurers, three branch offices of foreign professional reinsurers, nine insurance brokers and nine loss adjusters. Examinations were also conducted on 14 agents and one managed care organisation in connection with their dealings with licensed insurers. Apart from the examination on the financial position of the licensees, compliance with rules and regulations and internal controls, the examinations also focused on issues pertaining to corporate governance, risk management systems and anti-money laundering measures. In addition to the commercial examinations, the Bank had also conducted examinations on the information systems of 22 insurers during 2003.

Examinations conducted showed that non-compliance with the Insurance Regulations 1996 requirements relating to Cash-Before-Cover (CBC) for motor insurance continued to be rampant in the industry. To enhance market discipline, insurers are required to report to the Bank, on a quarterly basis, all instances of CBC non-compliance for motor business underwritten with effect from 1 January 2003.

As part of the anti-money laundering initiatives, insurers have undertaken proactive measures, including establishing corporate statements and policies, adopting specific internal audit programmes, appointing dedicated compliance officers, conducting structured formal training programmes for staff and developing operating procedures and manuals.

The Informal Enforcement Actions Framework (IEAF), which was implemented on 2 January 2003, provides the Bank with a structured approach towards enforcement of pre-emptive and corrective measures to address deficiencies and imprudent practices that have an impact on the operations of insurers. During the year, pre-emptive measures were required for three licensees where the Boards of Directors were required to submit Board resolutions to address the areas of concerns that were highlighted in the examinations.

The year 2003 saw the Insurance Supervision Department attaining certification for the globally recognised ISO 9001:2000 Quality Management System. This reflects the efforts to ensure quality examination processes by the

Table 1.7
Solvency Surplus

As at Financial Year End	General Insurance Fund		Life Insurance Fund		Shareholders'/ Working Fund ¹		Total	
	2001	2002	2001	2002	2001	2002	2001	2002
	RM million							
Margin of solvency	13,229.3	13,459.2	42,073.8	45,109.1	n.a.	n.a.	55,303.1	58,568.3
Admitted assets	14,419.1	14,771.6	43,461.6	49,515.8	787.5	873.6	58,668.2	65,161.0
Solvency surplus							3,365.1	6,592.7

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

Table 1.8
Compounding of Offences

Nature of Offence	Number of Licensees Fined
Contravention of:-	
Section 29(1)	1
Section 44(a) read together with Regulations 14(1) and 14(3)	1
Section 74(1)	2

Bank and the continuous commitment towards maintaining effective supervision of the industry.

The Bank also initiated dialogues with the insurance associations and enforcement agencies, including the Polis Diraja Malaysia and the Anti-Corruption Agency, in a collaborative effort to develop measures to combat insurance fraud, particularly those relating to motor vehicles and disability benefit claims.

As part of the Bank's commitment to promote collaboration and co-operation with other supervisory authorities, the Bank had extended training assistance to the Insurance Board of Sri Lanka and the Labuan Offshore Financial Services Authority, when their officers participated in the Insurance Supervision Programme organised by the Bank in 2003.

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 2003, fines were imposed on four licensees (Table 1.8). This involved offences relating to amendments to constituent documents, revaluation of assets and the appointment of auditor without prior approval.

Public Complaints

The Customer Services Bureau (CSB) in the Bank is an avenue for the public to direct their complaints and enquiries on insurance related matters. The CSB analyses the nature of complaints lodged for the purpose of identifying insurance practices that may require remedial regulatory action.

The total number of complaints handled by CSB in 2003 decreased marginally to 2,231 cases, attributable to the decline in complaints on medical and health insurance (MHI). The reduction of complaints on MHI was primarily due to the prohibition on the bundling of MHI products with other services or products sold by multi-level marketing companies, which previously had resulted in poor or inadequate consumer understanding of the terms and conditions of the products. In 2003, motor insurance remained as the sector with the highest number of complaints accounting for close to 50% of the total complaints received. The common complaints include delay in claims settlement, repudiation of liability and dissatisfaction with the sum of settlement.

As part of the efforts to enhance consumer protection and to promote a more proactive approach in complaints management, with effect from 1 June 2003, all insurers were required to establish within their respective institutions a dedicated unit to handle public complaints.

Another avenue to assist the public on insurance disputes is the Insurance Mediation Bureau (IMB). Established in 1992, it provides policy owners with yet another means to resolve disputes or complaints against their own insurers (third party claims do not fall within the ambit of IMB). At the moment, the scope of IMB is confined to claim amounts not exceeding RM100,000 per case. In 2003, the IMB handled a total of 1,070 cases (2002: 1,013), of which 55.6% were related to general insurance. Efforts are currently in progress to expand the role of IMB to encompass adjudicating disputes between insurers and third party claimants as well as handling disputes involving higher amounts.

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 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

Table 1.9
IGSF: Compensation and Expenses

	FGI		SEG		MISB		Total	
	2002	2003	2002	2003	2002	2003	2002	2003
	RM'000							
Amount settled to-date								
Judgement awards	4,856	4,856	11,326	11,326	66,041	66,978	82,223	83,160
Out-of-court settlements	1,295	1,295	517	517	111,358	113,932	113,170	115,744
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	–	–	10,192	10,545	10,200	10,553
Total	7,191	7,191	11,843	11,843	189,977	193,841	209,011	212,875
% change	–	–	–	–	2.7	2.0	2.5	1.8
No. of cases settled in the year	–	–	–	–	721	609	721	609
No. of cases settled to-date	883	883	1,227	1,277	45,316	45,925	47,426	48,085

¹ Solicitors' and adjusters' fees

the realisation of investments and dividends assigned from claimants in return for payments received from the IGSF.

Currently, levies are imposed only for general insurance business. The total collection of levies for the year 2003 based on 0.25% of gross direct premium amounted to RM19 million (2002: RM15.8 million). During 2003, the IGSF for general insurance business also received income of RM0.5 million as a result of the assignment of interim dividends declared by the liquidator of Mercantile Insurance Sdn. Bhd. (MISB). As at 31 December 2003, the total amount in the IGSF increased to RM497.8 million (2002: RM463.7 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 2003, 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., SEG Insurance Sdn. Bhd. (SEG) and MISB, are payable from the IGSF for general insurance business. During the year, payments amounting to RM3.8 million were made from the IGSF for the settlement of 609 claims against MISB. The total cumulative payments made to date from the IGSF for general insurance business is shown in Table 1.9.