Administration of the Act

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Legislation

The law that governs the insurance industry in Malaysia is the Insurance Act 1996 (Act) which came into force on 1 January 1997. The Act is supplemented by the Insurance Regulations (Regulations) and specifications which prescribe the details of mandatory requirements contained in certain provisions of the Act.

Insurance Regulations
In 2001, the following Regulations came into effect:-

- with effect from 1 January 2001, the prescribed method of computation for the reserves for unexpired risks for general insurance business was amended to provide for a more precise computation. The changes also brought the Regulations in line with the insurance accounting standards prescribed by the Malaysian Accounting Standards Board and permitted limits on acquisition costs under the "Guidelines to Control Operating Costs of General Insurance Business" issued by Bank Negara Malaysia (BNM);

- with effect from 30 September 2001, the minimum paid-up capital prescribed for a licensed local insurer underwriting direct insurance business, or surplus of assets over liabilities in the case of a foreign insurer, was revised from RM50 million to RM100 million to further strengthen the financial capacity of insurers; and

- the Insurance (Financial Guarantee Insurance) Regulations 2001, which prescribes the minimum paid-up capital and contingency reserves required to be maintained by a licensed financial guarantee insurer, came into operation on 2 January 2001 to pave the way for the establishment of a financial guarantee insurer in Malaysia to support the development of the private debt securities market.

Specifications
The Act empowers BNM to specify matters pursuant to the provisions of the Act. Pursuant to section 46(2) of the Act, the limit on aggregate investments in unsecured credit facilities that may be used to support the margin of solvency of an insurer was increased in 2001 from 15% to 20% of the prescribed statutory margin of solvency. The higher limit would accord insurers greater flexibility to invest in unsecured credit facilities to enhance their investment returns.

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 2001, the Minister of Finance approved the exemption of:-

- local licensed insurers from the restriction on dividend payments under section 93(a) of the Act, to allow an insurer to pay dividends on its shares during the period in which goodwill arising from any acquisition of another licensed insurer was being written off. The exemption would apply to any acquisition completed between 2 August 1999 and 31 December 2001, as an incentive to facilitate the consolidation of the insurance industry through mergers and acquisitions; and

- a licensed financial guarantee insurer from the requirements of section 22(1) of the Act with respect to the membership of an association of general insurers and section 176(1) of the Act with respect to the payment of levies to the Insurance Guarantee Scheme Fund, due to the specialised nature of the financial guarantee insurance business which is different from other classes of general insurance. However, a licensed financial guarantee insurer is subject to the other requirements of the Act and Regulations.

Licensing and Market Structure

Licensing of Insurers, Insurance Brokers and Adjusters

During the year, three insurance licences were revoked following the successful completion of a merger and the rationalisation of operation by several insurers. The licence of Mayban Assurance Berhad was revoked following its merger with UMBC Insurans Berhad, and the merged entity assumed a new name, Mayban General Assurance Berhad. The personal accident (PA) licence of Great Eastern Life Assurance (Malaysia) Berhad (GELM) and the life insurance licence of Overseas Assurance Corporation (Malaysia) Berhad (OACM) were also revoked during the year following the cessation of underwriting of PA business by GELM in January 2001 and the transfer of the life insurance business of OACM to GELM in September 2001. As at 31 December 2001, there were 63 insurers licensed under the Act as follows:-

- 36 insurers carrying on direct general insurance business;
- eight insurers carrying on direct life insurance business;
- eight insurers carrying on direct life and general insurance business;
- nine professional reinsurers carrying on general reinsurance business;
- one professional reinsurer carrying on life reinsurance business; and
- one professional reinsurer carrying on life and general reinsurance business.

Table 1.1
Number of Licensees

As at end of December	2000	2001
Direct insurers		
Malaysian-incorporated	51	50
Foreign-incorporated	2	2
Sub-total	53	52
Professional reinsurers		
Malaysian-incorporated	2	2
Foreign-incorporated	9	9
Sub-total	11	11
Total insurers	**64**	**63**
Insurance brokers	**36**	**36**
Adjusters	**41**	**41**

In addition to the 63 insurers, there were 36 insurance brokers and 41 adjusters, bringing the total number of licensees in the insurance industry to 140 as at the end of 2001 as shown in Table 1.1. The names of licensed insurers and reinsurers, insurance brokers and adjusters are given in Appendices II, III and IV to this Report.

Agents

Agents are not directly supervised by BNM under the Act, but are required to be registered with the mandatory insurance associations approved by BNM, namely, the Life Insurance Association of Malaysia (LIAM) for life insurance agents and Persatuan Insuran Am Malaysia (PIAM) for general insurance agents. As a prerequisite to registration, all agents are required to pass a compulsory Pre-Contract Examination for Insurance Agents (PCEIA) conducted by the Malaysian Insurance Institute to ensure a minimum level of professionalism among the agency force.

There were 133,750 (2000: 128,608) registered insurance agents at the end of 2001. The number of life insurance agents registered with LIAM increased from 87,375 at the end of 2000 to 88,504 at the end of 2001 while the number of general insurance agents registered with PIAM increased from 41,233 to 45,246 over the same period. Part-time agents continued to account for the majority (62.1%) of the life insurance agents.

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 2001, all licensed direct insurers had been incorporated locally, with the exception of two foreign insurers which had been given an extension of time to comply with the requirement. The list of foreign insurers which had 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 BNM to establish an office in or outside Malaysia. In 2001, a total of 24 branch offices were

Table 1.2
Number of Branches Approved

	Insurers	Insurance Brokers	Adjusters
Approved in 2001	11	-	13
As at 31 December 2001	786	30	116

approved. Of this, 11 were branches of insurers, bringing the total number of branches established by insurers to 786 as at the end of 2001. The number of approved branch offices of licensees as at the end of 2001 is shown in Table 1.2.

Changes in Equity

Section 18 of the Act requires a Malaysian-incorporated licensee to maintain a minimum paid-up capital of an amount prescribed by BNM. Licensed foreign insurers are required to maintain a corresponding surplus of assets over liabilities in Malaysia. The minimum paid-up capital/surplus of assets over liabilities prescribed for direct insurers is RM100 million, while insurance brokers and adjusters are required to maintain a paid-up capital unimpaired by losses of RM500,000 and RM150,000 respectively.

In 2001, 15 insurers increased their paid-up capital to comply with the minimum requirement of RM100 million which took effect on 30 September 2001. As at 31 December 2001, the capitalisation of Malaysian-incorporated insurers stood at RM4,936.8 million, an increase of 17.1% from RM4,215.3 million in the previous year. Malaysian equity participation accounted for 61.7% (2000: 66.3%), with 31.9% (2000: 35.6%) held by Bumiputera in line with the National Development Policy. The capital distribution of Malaysian-incorporated insurers is given in Table 1.3.

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

As at end of December	2000		2001	
	RMm	%	RMm	%
Held by Malaysians	2,795.5	66.3	3,046.0	61.7
Bumiputera	1,502.7	35.6	1,575.6	31.9
Non-Bumiputera	1,292.8	30.7	1,470.4	29.8
Held by non-Malaysians	1,419.8	33.7	1,890.8	38.3
Total	4,215.3	100.0	4,936.8	100.0

Table 1.4
Distribution of Paid-up Capital of Insurance Brokers

As at end of December	2000		2001	
	RMm	%	RMm	%
Held by Malaysians	37.2	93.5	39.3	93.1
Bumiputera	30.8	77.4	32.9	78.0
Non-Bumiputera	6.4	16.1	6.4	15.1
Held by non-Malaysians	2.6	6.5	2.9	6.9
Total	39.8	100.0	42.2	100.0

As at the end of 2001, the total paid-up capital of licensed insurance brokers increased by 6% to reach RM42.2 million, while licensed adjusters registered a total capitalisation of RM12.1 million, an increase of 2.5% from 2000. The capital distribution of insurance brokers and adjusters are shown in Table 1.4 and Table 1.5 respectively.

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

Table 1.5
Distribution of Paid-up Capital of Adjusters

As at end of December	2000		2001	
	RMm	%	RMm	%
Held by Malaysians	10.8	91.5	11.0	90.9
Bumiputera	5.7	48.3	5.8	47.9
Non-Bumiputera	5.1	43.2	5.2	43.0
Held by non-Malaysians	1.0	8.5	1.1	9.1
Total	11.8	100.0	12.1	100.0

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 shall be subject to a minimum amount of RM50 million in the case of licensed direct insurers and local professional reinsurers, and RM10 million in the case of foreign professional reinsurers. Assets supporting the margin of solvency must be in the form of admitted assets specified by BNM.

The requirement to maintain an admitted asset ratio (defined as the proportion of admitted assets required to be maintained by an insurer to the margin of solvency) was increased from 90% to 100% with effect from 1 January 2001. The reinstatement of the admitted asset ratio requirement combined with the higher absolute minimum solvency requirement of RM50 million resulted in the decrease in the combined aggregate solvency surplus (assets in excess of the required margin of solvency) of the industry by 16.3% to RM3,937.6 million for the financial year ended 2000/2001 (Table 1.7). Seven insurers reported technical solvency deficiencies in their general insurance fund at the close of the 2000/2001 financial year. Two of these insurers rectified their solvency deficiencies during the year. Of the remaining five insurers, one insurer was running off its general insurance business, three insurers were being acquired by other insurers and one was in the process of rectifying its solvency deficiency through capital injection by one of its shareholders. However, all five insurers had sufficient assets to meet the liabilities of their general insurance funds.

Table 1.6
Shareholders' Funds of Malaysian-incorporated Insurers

Shareholders' Fund	Financial Year End 1999	2000
	RM million	
Paid-up capital	3,973.3	4,320.4
Retained profit/loss	2,042.6	1,726.4
Other reserves	799.0	983.5
Total	6,814.9	7,030.3

As at the end of financial year 2000/2001, retained profits registered by the industry recorded a decrease of 15.5% to RM1,726.4 million, compared with an increase of 68.8% to RM2,042.6 million during the preceding financial year. The decrease was primarily attributed to higher dividend pay-out ratio (the ratio of dividends to profits after tax for the year) and capitalisation of retained profits to meet the minimum paid-up capital requirement. The higher capital maintained by insurers resulted in an increase in the shareholders' funds of Malaysian-incorporated

Table 1.7
Solvency Surplus

As at Financial Year End	General Insurance Fund		Life Insurance Fund		Shareholders'/ Working Fund[1]		Total	
	1999	2000	1999	2000	1999	2000	1999	2000
	RM million							
Minimum required margin of solvency	11,681.9	12,409.3	29,302.9	35,618.1	n.a.	n.a.	40,984.8	48,027.4
Admissible assets	13,807.8	13,629.3	31,496.1	37,555.0	387.6	780.7	45,691.5	51,965.0
Solvency surplus							4,706.7	3,937.6

[1] Assets can be assigned from the shareholders'/working fund with the prior approval of BNM to meet the solvency margin requirement

n.a. Not applicable

insurers by 3.2% (1999/2000: 25.5%) to RM7,030.3 million in 2000/2001 (Table 1.6).

Section 92(5) of the Act empowers BNM to direct a licensee to obtain BNM's confirmation before it can table its accounts at the general meeting and publish its accounts. This section is invoked when there is a need to ensure that the solvency requirement is complied with before dividends are paid. In 2001, six insurers were required to submit their accounts for BNM's confirmation. The accounts of three insurers were confirmed after their solvency positions were rectified while the accounts of the other three insurers, which were being acquired by other insurers, were confirmed upon submission of concrete plans to ensure solvency compliance.

Examination

During 2001, the Insurance Supervision Department of BNM conducted 18 financial examinations, three actuarial examinations and 12 market conduct examinations on 19 insurers and their branches. In addition, examinations were also carried out on one insurance broker and one adjuster, as well as 13 insurance agents and two managed care organisations, in connection with their dealings with licensed insurers.

Taking cognisance of the rapidly evolving risk landscape both within the broader financial sector as well as challenges confronting the insurance industry specifically, the financial examinations focused on critical and high-risk areas that significantly impact the financial health of insurers. This included the assessment of an insurer's core competencies and standards of professionalism as part of efforts to develop domestic capabilities and strengthen consumer confidence under the Financial Sector Masterplan. The examinations also covered in-depth review and appraisal of an insurer's EMAS (Earnings, Management, Asset Quality and Solvency) components. To complement the risk-based examinations, BNM also conducted market conduct examinations on several insurers to ensure that they complied with fair market practices as well as BNM's legal and administrative requirements.

Based on the examination findings, the boards and management of insurers were directed to take appropriate remedial measures to further improve their operations in respect of corporate governance, reinsurance activities, customer service and productivity.

Compounding of Offences

Section 211(1) of the Act empowers the Governor of BNM to compound an offence under the Act or Regulations. In 2001, fines were imposed on seven licensees for the following offences:-

- one insurer for its failure to notify BNM of the resignation of one of its directors and the distribution of misleading sales brochures by its agents;
- one adjuster for appointing an auditor without obtaining the prior approval of BNM;
- two adjusters for late submission of their annual accounts to BNM;
- two adjusters for late submission of half-yearly returns to BNM; and
- two adjusters (including the adjuster which was also fined for late submission of half-yearly returns to BNM) for relocating their branches without the prior approval of BNM.

In addition, four individuals were compounded for executing transfers of shares exceeding 5% in the controller of a licensed insurer, without obtaining the prior approval of the Minister of Finance.

Table 1.8
Compounding of Offences

Nature of Offence	Number of Licensees Fined
Contravention of:-	
Section 36(2)	2
Section 73	1
Section 74	1
Section 87(1)	2
Section 150(4)	1
Section 193(1)	2

Note: In addition to the above, four individuals were fined for contravention of section 67(2) of the Act

Public Complaints

The number of complaints against insurers which has been on an upward trend since 1998, increased further to reach 1,876 as at the end of 2001 (2000: 1,740). While the number of complaints received against life insurers declined by 7.9% in 2001, it was more than offset by the increase in the number of complaints against general insurers which accounted for 84.5% of the total number of complaints lodged against insurers in 2001. Delays in settling claims and low settlement sums were the most common cause of complaints against general insurers, accounting for 55.4% of the total number of complaints received. Complaints related to repudiation of liability by general insurers also contributed significantly to the overall increase in the number of complaints received against general insurers in 2001. The increase was attributed mainly to medical and health insurance products where the repudiation of liabilities by general insurers arose mainly due to policy owners' lack of awareness and understanding of their obligations and entitlement under the terms and conditions of their insurance policies.

In 2001, the number of complaints received with regard to the conduct of insurance agents increased by 60.7% (2000: declined by 39.8%), reflecting the lack of professionalism of some agents in the marketing of insurance products and servicing of their clients. Complaints relating to the cancellation of insurance policies, mainly with regard to delays in cancellation, charges imposed and unsatisfactory amount of surrender value paid, also increased by 136.4% in 2001 (2000: declined by 29%).

The Customer Service Bureau (CSB) which was established in 1998 in the Insurance Regulation Department of BNM provides the public with an avenue to direct their complaints and enquiries on insurance matters. The CSB works closely with the industry and its associations to resolve complaints against licensees. As part of BNM's regulatory processes, complaints received are analysed for trends of adverse developments in the operations of individual insurers or in market practices that may require remedial regulatory actions.

Table 1.9
Public Complaints

Nature of Complaints	Number of Complaints		
	1999	2000	2001
Against general insurers			
Delay in settling claims	477	516	541
Amount offered for settlement of claims	241	298	337
Delay in authorising repairs	22	-	-
Agency matters	31	11	42
Delay in issuance of policy	12	24	17
Refusal to insure/renew policy	3	6	17
Delay in reply to correspondence	266	219	209
No-claim-discount entitlement	20	21	21
Repudiation of liability with reference to conditions of policy contract	131	143	182
Issues on cancellation of policy	8	6	11
Miscellaneous	114	180	208
Sub-total	1,325	1,424	1,585
% change	6.6	7.5	11.3
Against life insurers			
Delay in settling claims	34	46	14
Amount offered for settlement of claims	20	16	17
Amount of cash surrender value	5	-	-
Agency matters	62	45	48
Delay in issuance of policy	9	6	9
Refusal to insure/renew policy	-	-	1
Delay in reply to correspondence	21	21	21
Bonus entitlement	4	2	1
Repudiation of liability with reference to conditions of policy contract	15	30	25
Issues on cancellation of policy	23	16	41
Miscellaneous	80	134	114
Sub-total	273	316	291
% change	5.0	15.8	(7.9)
Total	1,598	1,740	1,876
% change	6.4	8.9	7.8

The Insurance Mediation Bureau (IMB), set up by the insurance industry in 1992, serves as an alternative channel to the public for the resolution of disputes with insurers. The scope of the IMB is currently confined to claims by policy owners against their own insurers for amounts not exceeding RM100,000 per claim. Third party claims do not fall within the ambit of the IMB. In 2001, the cases handled by the IMB rose by 36.7% to 704 cases (2000: 515). Motor insurance cases accounted for 28.8% of the total. As in previous years, disputes involving general insurance claims continued to account for the bulk (66.5%) of the cases handled by the IMB.

Insurance Guarantee Scheme Fund

Section 173(1) of the Act empowers BNM 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. It is funded mainly from levies imposed on licensed insurers. Other sources of remittances into the IGSF include income from investments of the fund, proceeds from the realisation of investments, moneys recovered from insurers being wound up, borrowings, donations or contributions, and 50% of all fines collected from the compounding of offences under the Act.

At present, levies are imposed only for general insurance business. Total annual levies on general insurance business collected in 2001 amounted to RM59.8 million, bringing the total amount in the IGSF for general insurance business to RM356.9 million as at 31 December 2001. No levy is imposed for life insurance business. Nevertheless, fines collected for offences related to life insurance business were credited into the IGSF for life insurance business. As at 31 December 2001, the amount in the IGSF for life insurance business stood at RM0.4 million.

Insurance claims in respect of three liquidated insurers, namely, First General Insurance (M) Sdn. Bhd. (FGI), SEG Insurance Sdn. Bhd. (SEG) and Mercantile Insurance Sdn. Bhd. (MISB), were paid from the IGSF for general insurance business. The following payments were made from the IGSF for claims against the following two companies during the year:-

- four claims against SEG amounting to RM211,326; and
- 1,059 claims against MISB amounting to RM7,595,641.

The total cumulative payments made todate from the IGSF for general insurance business is shown in Table 1.10.

Table 1.10
IGSF: Compensation and Expenses

	FGI		SEG		MISB		Total	
	2000	**2001**	**2000**	**2001**	**2000**	**2001**	**2000**	**2001**
	RM'000							
Amount settled todate								
Judgement awards	4,856	4,856	11,115	11,326	62,846	64,794	78,817	80,976
Out-of-court settlements	1,295	1,295	517	517	105,216	108,971	107,028	110,783
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	8	8	–	–	6,802[1]	8,695[1]	6,810	8,703
Total	7,191	7,191	11,632	11,843	177,250	184,846	196,073	203,880
% change	–	–	0.5	1.8	7.8	4.3	7.1	4.0
No. of cases settled in the year	–	–	5	4	1,663	1,059	1,668	1,063
No. of cases settled todate	883	883	1,223	1,227	43,536	44,595	45,642	46,705

[1] Solicitors' and adjusters' fees