

## REGULATION IN GENERAL INSURANCE

*By Chris Woodburn*

*For years the UK's regulatory framework for general insurance has been fragmented, leaving thousands of entities to undertake general insurance activities unregulated. The industry now has an opportunity to support a single organisation to promote and secure high standards of professional conduct among all insurers, reinsurers and intermediaries involved in the distribution of general insurance products in the UK. Chris Woodburn, Chief Executive of the General Insurance Standards Council (GISC) spoke to BILA members on 21 March about this new regulation and its importance for the general insurance industry.*

### **What is GISC and why is it important?**

In 1998 the Financial Services Authority was created as the single statutory regulator in the financial sector under the Financial Services and Markets Bill. However it was decided that statutory regulation of the transaction of general insurance business was unnecessary, and that the Insurance Brokers (Registration) Act would therefore be repealed. In July 1998 Helen Liddell, then Economic Secretary to the Treasury, announced that a consultation exercise undertaken by the Government had led her to conclude that the *"case for continuing statutory regulation of insurance brokers has not been made ... it no longer fully meets the needs of today's market."* Mrs Liddell stated that:

*"to maintain and improve professional standards in the transaction of non-life insurance business (such as car and house insurance) by brokers and other intermediaries, the Treasury will look to voluntary self-discipline rather than statute" and confirmed that a majority of those consulted felt that "the best way forward was self-regulation by a body having support across the insurance industry, independent of insurers and intermediaries, taking their interests and those of their customers into account".*

Accordingly, a consultation paper was issued jointly by the Association of British Insurers (ABI), the Association of Insurance Intermediaries and Brokers (AIIB), the British Insurance and Investment Brokers Association (BIIBA, now known as BIBA), the International Underwriters Association/London Insurance and Reinsurance Market Association (IUA/LIRMA), Lloyd's and the Lloyd's Insurance Brokers Committee (now known as the London Market Insurance Brokers' Committee). Together these bodies account for the vast majority of insurance placed and underwritten in the UK, and their intention was to inform general insurance

practitioners and consumer groups about the proposed self-regulatory regime for advice on, and sales of, general insurance and reinsurance in the UK, and to seek views on the proposals. The name of the proposed regulatory body was the General Insurance Standards Council (GISC).

GISC was established as a company limited by guarantee, owned by its directors. However, recognising the need for open and accountable governance, views on future governance arrangements were sought in the second consultation paper issued by GISC in the autumn of 1999, and a third consultation document dedicated solely to corporate governance was issued in December 2000. Industry practitioners and other interested parties were asked to give their views on the composition and the election process for a new Board, on the regulated community themselves becoming members of the Company, and on voting rights.

### **What are GISC's objectives?**

GISC's objective is to establish a single regulatory regime to set, monitor and enforce standards in all areas of general insurance activities in the UK.

GISC is committed to ensuring that its Rules are both appropriate, in terms of consumer protection, and not unduly burdensome to the regulated community. The Rules were developed in consultation with the industry and with consumer groups - GISC believes they therefore represent a sensible balance between good business practice (not unattainably high ideals) and consumer protection.

### **What has been achieved so far?**

GISC published its Rules in June 2000, ahead of its formal launch on 3 July 2000. Membership now stands at nearly 2000 businesses (as at April 2001), the composition of which, in terms of gross written premium, accounts for around 75% of all general insurance placed with insurance companies operating in the UK, and around 65% of business placed through intermediaries.

The current membership is, however, a small proportion of the number of business entities involved in general insurance activities, which may be up to 30,000. This is because any organisation undertaking a general insurance activity comes within the regulatory scope of GISC, and the definition of "general insurance activities" includes selling; advising; broking (including producing and placing); and any other activity which, when engaged in (in connection with a general insurance product) is regulated by the GISC Codes (the Private Customer Code and the Commercial Code). Thus in addition to insurers, wholesalers, brokers and intermediaries whose

core business is the transaction of insurance, GISC will embrace loss adjusters and claims outsourcing providers and the thousands of businesses for which general insurance is not a core activity, such as estate agents, solicitors, accountants, travel agents, car dealers and many types of retail outlets.

To ensure UK consumers are protected from any point at which they decide to purchase insurance, and throughout the term of that policy, requires GISC to bring all these disparate businesses into membership. To do so without statutory legislation requires enforcement of Rule F42. This Rule requires GISC members to deal with intermediaries in the distribution chain who are also regulated by GISC (either as members themselves, or as an appointed agent of a member). Rule F42 reflects the policy, encouraged and supported by the Government and ministers, that there should be a single independent regulator to replace the current unsatisfactory mix of codes, statutes and Byelaws, and is seen as the best alternative to statutory regulation under the Financial Services and Markets Act.

Since implementation of Rule F42 would effectively make membership of GISC mandatory, albeit without statutory legislation, GISC submitted its Rules (including Rule F42) to the Office of Fair Trading for a decision under the Competition Act 1998. On 24 January 2001 the OFT ruled that

“none of the Rules notified by GISC, by themselves or in combination with the other Rules, have as their object or effect an appreciable prevention, restriction or distortion of competition within the UK ... The Rules are aimed at ensuring that members of GISC are competent to carry on general insurance activities and that there are safeguards in place to protect consumers”.

This important decision paved the way for GISC to announce on 12 March the timetable for the implementation of Rule F 42:

- From 1 September 2001, members of GISC (including their appointed agents and sub-agents) will only be permitted under the Rules to deal with intermediaries who have submitted an application for membership of GISC.
- From 31 December 2001 members of GISC (including their appointed agents and sub-agents) will only be permitted under the Rules to deal with organisations acting as intermediaries who have been accepted into membership of GISC.

As with existing members, all these new members of GISC will be subject to monitoring of their compliance with the Rules. Monitoring began shortly after GISC's launch and, as promised during GISC's development, our approach has been pragmatic and constructive, with the emphasis being on the provision of advice and assistance to help members achieve compliance. Initial visits, undertaken by our two monitoring organisations PricewaterhouseCoopers and Ernst & Young, have been of great value as a means of providing members with more information about GISC, and of GISC gaining a better understanding of each member's business.

Feedback from monitoring will be used in developing profiling and risk assessment systems to ensure our monitoring resources are deployed where the potential risk is perceived to be greatest and where the potential exists for improvements following monitoring. The results of the monitoring conducted to date have been encouraging, as has feedback from members who have welcomed the advice and assistance given.

### **Prospects for success**

GISC can only be successful if it receives the support of the industry. The fact that GISC has established the standards and the operating framework for a single, coherent system of regulation has received strong support from key industry bodies such as the Association of British Insurers, Lloyd's, the Association of Insurance Intermediaries and Brokers, the British Insurance Brokers' Association, the British Bankers' Association, and the Association of Medical Insurance Intermediaries. Crucially, we also have support from the Government: "*GISC offers an exceptional opportunity for firms in the industry to show that they are committed to, and can deliver, the high standards of customer service that people expect*" said Stephen Timms MP (Financial Secretary to the Treasury), at GISC's official launch in July 2000.

To retain this support, GISC continues to demonstrate its commitment to consultation across all aspects of the industry, encompassing large and small insurers and intermediaries and those for whom insurance is not their core business, ensuring that our Rules represent good business practices which can be implemented by all members embraced by GISC's diverse regulatory scope.

GISC is also committed to creating a framework within which competition can flourish. In particular, the Codes and our financial requirements have been designed to recognise the different circumstances of the broad spectrum of businesses within GISC's regulatory scope.

## **Benefits of success for GISC**

### **• Good for competition**

- By promoting a single, coherent system of regulation GISC brings a level playing field to the industry for the first time.
- Recognising the different circumstances of the diverse range of businesses involved in general insurance activities, GISC has not created prescriptive Rules. Instead, its Codes set out the standards expected of members, but do not stipulate how individual businesses must operate to meet these standards.
- As an independent body, no single sector of the industry controls GISC.
- While some commentators point to GISC as a catalyst for change in the market place, the fact is that markets are constantly changing and there is no evidence to suggest that regulation by GISC has or will restrict product choice or, in the words of the OFT “prevent, restrict or distort competition”. Indeed regulation by GISC is a key factor in facilitating the opening of the Lloyd’s market.

### **• Good for consumers**

- GISC will regulate all its members directly, meaning, for the first time, one point of contact for all general insurance complaints against intermediaries. Clear customer codes set out what buyers of general insurance can expect from members.
- A system of monitoring checks that members do indeed comply with the Rules, rather than waiting for complaints to arise.
- Customers can be confident that GISC intermediary members are subject to financial requirements which ensure businesses are solvent, have adequate professional indemnity insurance, and maintain separate insurance bank accounts.
- Members must ensure that employees are appropriately trained.

On the negative side, it must be accepted that self-regulation can, in itself, be a weakness. Without statutory legislation there is no legal requirement for businesses involved in general insurance activities to become members of GISC, although enforcement of Rule F42 will effectively bring the vast majority of players into membership. Lack of statutory legislation could also affect GISC’s status as a

powerful regulatory voice alongside the likes of the FSA and SFA, but it also has the advantage that it can be more flexible, so that Rules can be added or revised where necessary, after appropriate consultation, without requiring Acts of Parliament.

### **What do the critics say?**

Main criticisms of GISC are that:

- there is no need for a single regulator;
- GISC does not understand businesses for whom insurance is a secondary product;
- GISC has bitten off more than it can chew.

In response, GISC argues that:

- the Government, consumer groups, and much of the industry itself, are in favour of a single, coherent regulatory system;
- through continued, wide-ranging consultation, GISC believes the interests of all sectors of its membership and potential membership are taken into account;
- while the scope of GISC does indeed encompass a broad range of businesses, our Rules, our working practices and our operating systems have been established with this huge task in mind, and we continue to plan responsibly for the future.

### **The big issues**

In the period leading up to, and immediately following, full enforcement of Rule F42, GISC needs to manage a number of important issues.

While the OFT considers three appeals against its January decision, GISC continues to forge ahead with the task of bringing into membership the majority of businesses undertaking general insurance activities. Communicating with the thousands of potential members, processing applications and maintaining this relatively large membership base are practical challenges for which we have planned and which we continue to address.

Another important step on the road to becoming a credible regulator is the need to raise our own profile with those buying insurance. Increasing membership, and in particular the proliferation of members with a high street/high profile presence,

means that we can now step up our consumer education programme to promote the benefits of buying insurance from a GISC member. Ensuring the fair treatment of customers is, after all, our prime objective.

Fair and transparent corporate governance is also of vital importance to GISC and we will be progressing the issues raised in the consultation document issued at the end of last year.

At the same time we must not take our eyes off the European ball. GISC is keen to ensure its members are well placed for any new EU legislation on insurance intermediation, and we are keeping a close watch on the proposed directive which would allow registered intermediaries to pursue their activities anywhere in the Community.

### **Concluding thoughts**

From the very beginning GISC has demonstrated commitment to consultation; to fair and equitable treatment for general insurance customers and for all members and potential members; and to the promotion of good business practice, not prescriptive Rules.

We have set out our philosophy clearly. As a self-regulatory body we recognise our responsibilities to the continued and enhanced success of the general insurance industry. We will use the decision of the OFT not as a weapon but as a tool to bring the industry together; we will use our monitoring system not to punish non-compliance indiscriminately but to guide businesses towards better practices; and we will use our position as the sole regulator not to build a bureaucratic regime, but as the foundation of a strong and well respected industry.

*Chris Woodburn*

*Chief Executive, General Insurance Standards Council*

*For further information on GISC, please visit [www.gisc.co.uk](http://www.gisc.co.uk)  
or call 020 7648 7810.*