



Financial Services Commission

Update of IMF Recommendations

INSURANCE

18 January 2006

Insurance

IAIS 4

If Gibraltar is to continue to support regulatory progress it must plan its resources accordingly. Taking all of the above into account we recommend that the Commission consider the issue of succession planning as much in advance as possible. This should be done in ways that minimize gaps in expertise and take into account the growth of the insurance sector in Gibraltar, the need for more onsite supervision and the continuing demands made by international initiatives. Our assessment is that there will be a need for increased staff in the future, possibly at the senior analyst level plus another person to assist part time with onsite visits.

IAIS 2

The system is already very detailed but we recommend that it could be extended even further. It is not difficult to overlook one of the checks that may hold a vital clue to fitness and propriety. Therefore, we suggest a fitness checklist, containing all possible checks, instituted for all notifiable persons and that if there are any slight questions arise against them, the application should be refused on grounds that do not infringe upon human rights regulations. Currently, there is no application checklist in use; we recommended that the fitness check list be incorporated within such a list when it is developed.

When there is a review of the Insurance Ordinance we recommend that the reasons for refusal or revocation of licenses should be expanded so that the Commissioner has the widest choice of reasons, including the person's participation in unsound transactions. The policy should, in addition, be clearly stated to all involved in the insurance sector so that they are aware of the higher standards that apply to Gibraltar insurers than to many other jurisdictions. The insurance sector should play an integral part in this aspect of the work of the Commission.

Succession planning is a topic discussed by the Commissioner with Commission Members from time to time. At present the Commissioner and Head of Insurance Supervision have both some three years before expiry of their present contracts. There is a minimum three months' notice period for the Head of Insurance Supervision and six months for the Commissioner, so allowing recruitment of a suitable replacement. The growth of staff numbers and on-going training and development also enable effective supervision to continue in the event of a sudden departure/illness of a senior member of staff.

Currently one further member of staff is budgeted for the Insurance Division bringing the staff complement to five. This compares to two at the time of the first IMF visit.

Fitness and Propriety checks have been computerised within the Insurance Division and checks undertaken are listed. All notifiable persons are referred to the Manager, Enforcement who undertakes additional checks using Lexis Nexis, World-Check, Complanet and general search engines. Where necessary he will request GFU to undertake additional searches.

An effective applications checklist has been introduced.

We consider that the Commissioner already has sufficient powers. The industry is aware of the standards expected.

The Commission should introduce a more structured approach to determining exposure on the insurance business underwritten. Such a method would include the use of exposure spreadsheets. This would apply mainly at application stage but could be used to monitor any proposed material changes during the year. It is important that the insurance managers and any prospective applicants have the prior knowledge of and are made aware of the methods used by the insurance supervisor.

IAIS 4

We recommend a review of all licensed companies and the adoption of the corporate governance arrangements set down in the essential and additional criteria brought out by the IAIS in principle number 6. In the case of managed captives the criteria should be slightly adapted to take account of the role that the insurance manager plays. We recommend that the Commission be given direct powers to specifically deal with corporate governance issues.

IAIS 8

We recommend that Gibraltar should implement this (Insurance Groups Directive) directive as soon as possible.

IAIS 11

We recommend that there be a full review of market conduct issues, taking into account the above comments (especially those relating to onsite inspections); a review of qualification requirements; a review for possible omissions in the conduct of business regulations; the collation of more reliable statistics and a fuller consideration of overseas policyholders. Finally, Gibraltar should seek to employ a financial services ombudsman, or someone similar, in order that disputes between licensee and consumers can be readily resolved.

The methodology has been introduced for captives. Stress and scenario testing is also undertaken for open market insurers depending on the size and nature of the business.

Currently the proposal for an Approved Persons Regime is with Government.

Implemented in 2004 through:-

The Insurance Companies (Parent Undertaking Solvency Margin Calculation) Regulations 2004
The Insurance Companies (Accounts and Statements) (Amendment No. 2) Regulations 2004 (Legal Notice No. 16 of 2004)
The Insurance Companies (Valuation of Assets and Liabilities) (Amendment No. 2) Regulations 2004.

Market conduct issues were reviewed as part of the process of implementing The EU Insurance Mediation Directive.

As regards statistics, the FSC is participating in the IMF Information Framework

The Government is considering the establishment of a Financial Services Ombudsman. Customers of companies offering services in the UK may access the UK Financial Ombudsman scheme.

IAIS 13

We recommend that a structured program of onsite visits be instituted as soon as possible using a detailed check list (including a money laundering module) with the objective of an inspection every three years, or more frequently, allowing appropriate feedback from the insurer or insurance intermediary.

These have always been undertaken for intermediaries. For insurance companies the programmed commenced in 2005.

Full checklists are used including an AML module

IAIS 14

We recommend that there be a review of the powers available to the Commissioner and that legislation be amended to include the specific powers outlined in Chapter III C (Civil Money Penalties).

Consideration of this recommendation continues. However, we have not found that the lack of power impairs our ability to supervise and do not necessarily consider such as a particularly valuable regulatory tool in the context of the Gibraltar insurance industry and the FSC's approach to supervision.

IAIS 16

It is recommended that regular meetings be held with the Financial Intelligence Unit (FIU) in order to exchange information about money laundering within the insurance sector.

The Insurance Division meets regularly with the Manager, Enforcement who in turn liaises regularly with the GFU.