

the broker



Climate change:
why smaller businesses
must take note

Major losses:
insurers prove their mettle

The SME sector:
the battle is on

One voice
Strength in numbers

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TO BEACH BALLS,
WE'LL SEE A WAY
TO INSURE THEM.



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IT'S OUR POLICY TO SEE THINGS DIFFERENTLY

the broker

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This magazine is about you and for you – so we do rely on your contributions. Please contact Leighann Burtrand with your news and views. Her details are in the contact list above.

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COVER IMAGE: NICOLA ANTAKI

WELCOME



We get thousands of calls from members of the public every year which reach us via a dedicated consumer number. Often, they'll have a complex insurance query.

In many cases, we are able to pass on numbers of local members who are specialists in a particular area.

Referring business to brokers – and this is what happens – is something BIBA is delighted to be involved with. It is also just one of the benefits of membership and this year we are confident of attracting around 200 new members.

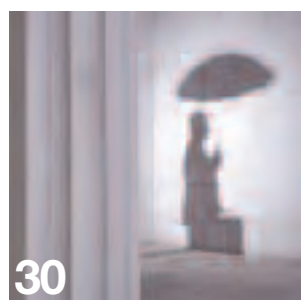


Leighann Burtrand
Editor of *the broker*

We read a lot about the shrinking broker market and in the past, some brokers have felt that membership was an unnecessary cost. These attitudes are changing fast and as our feature on page 10 shows, joining BIBA is increasingly being viewed as a business necessity.

But announcing new members is not enough. We must provide them with a business advantage, and in the media and through public affairs, ensure that the value of using a broker is made loud and clear. Of course, we always want to know if our members feel we are meeting this challenge!

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Eric Galbraith, BIBA's chief executive, talks about the key matters on his agenda

Market solutions – a way forward

We've received excellent feedback on our recommended terms of business agreement (TOBA) wording, which is a market solution to assist with increasing transparency around remuneration in respect of commercial customers and the management of potential conflicts.

However, TOBAs are not just there to be inserted into literature and then forgotten about. Brokers need to review this area regularly and see them as part of overall conflict management procedures.

Solicitor Hywel Evans of Hugh James provides more information on the use of TOBAs in his article on pages 30-31.

The other market challenge is to respond to what the FSA calls "contract certainty". BIBA needs to have robust data from members to demonstrate that this is being treated seriously and I would like to thank all those who have taken the time to respond to date. I am aware of the issues associated with compiling this information, but it is vital all members respond.

Local heroes

In this issue, we preview the forthcoming BIBA Scotland one day conference and I hope to catch up with many of you there. I would also like to emphasise activities in all BIBA regions are a major focus for us.

As you'll be aware, we have taken on a team of regional executives and already they've proved to be a huge asset.

Another development has been the setting up of several regional compliance forums. These involve individuals with regulatory responsibilities getting together on a regular basis to share best practice.

A further development has been to encourage our regional members to have greater engagement with the media – and in politics – so they can inform the press and



It is vital all members respond

decision makers of the value of brokers.

In the previous issue of *the broker*, we gave details of our improved regional training courses and a growing number of members are taking advantage of these. It's easy for smaller firms to club together and have a bespoke course run for them at a convenient location – and it's extremely cost-effective.

Coping with change

Competition, the soft market, offshoring and greater automation all create pressure on jobs in the UK and few will have been surprised to see insurers announce some redundancies.

These redundancies may not impact on service. Our major market survey of insurer service will examine the position later this year.

In the broker market, we're still seeing a great deal of consolidation and this can create pressure on smaller firms which want to remain independent. We have been contacted by a few firms which have felt their agencies were threatened by insurers' changing strategies and I'm pleased to say, we're able to intervene on their behalf. I would urge insurers to look at the bigger picture.

TCF – part of what we already do


There have been reports some brokers are not clear on what the FSA's Treating Customers Fairly really means in terms of their procedures. For our members, I believe TCF is in their DNA – it's incorporated into every aspect of their business – the challenge is to be able to demonstrate this to the FSA.

We have produced a self-assessment tool to assist members, which can be found on our website.

My experience is that many issues on TCF arise not in the primary broker/intermediary market but are more likely to arise where the company does not handle insurance as its primary business.

Don't make brokers bear the brunt of gold plating

It's been announced that in some areas, there are plans to reduce the regulatory burden. The Davidson Review, for example, is looking at the way EU legislation has been implemented. BIBA is already concerned direct writers have lesser disclosure requirements than intermediaries. There is a risk that other areas could be affected in a similar way, for example, claims handling. We will be keeping a watchful eye on developments.

 Email Eric Galbraith at galbraith@biba.org.uk

To be online or not to be?

'Internet... or out of business?' – that is today's big question.

The internet is a prime distribution channel. It outstrips direct telesales in some personal lines. Now the guns are being trained on the broker heartland of small commercial insurance.

Fail to change and the exit beckons. Think it won't happen? Just look at the travel industry.

The retail market is changing so

fundamentally that everything is up for grabs. Yet although the competition is poised to make its move, forward-thinking brokers and supporting insurers still have every chance to flourish.

Crack the online challenge and there is no limit to what we can achieve. Four million policies are already sold via the internet and a third of all quotes are delivered electronically – that's

15 per cent of the market.

Insurance is no longer the preserve of insurance brands. With 1.5 million policies on its books, Tesco is eyeing a move into commercial vehicle insurance. Sainsbury's already sells 30 per cent of its policies online.

But this can be good for brokers. The big-brand promotions have created a pool of hungry customers attracted to the convenience and cost-effectiveness of online shopping. But they also like choice and independent advice. With a slick web presence a broker can attack this e-market with gusto.

The battle lines are being drawn in small commercial business.

Remember, a client running a small business is the same one who buys personal insurance on their personal computer at home. Research suggests they want to repeat the experience for their business.

Brokers have plenty to keep them busy – regulation, market conditions and consolidation for starters. So they need to land the first punch, with strategies to capitalise on the web. Help is here in the shape of technological solutions, one example being i-market, and this will help brokers fight their corner. We must grasp the nettle now.

Cathie Bruce is distribution and customer service director for Groupama Insurances



Cathie Bruce



BIBA's Journalist of the Year, James Daley

James scoops BIBA's top journo award

James Daley, business correspondent for *The Independent*, is overall winner of BIBA's annual Journalist of the Year awards.

The presentation held in London is arguably the most important event for a journalist writing on insurance matters to win. This year, it attracted its highest ever number of entries and a record number of attendees.

His piece which particularly impressed the judges was titled *Why there's no such thing as uninsurable* and looked at a wide range of barriers to obtaining traditional cover – and recommended solutions, often involving a broker. These included pre-existing health problems, subsidence and other property related hazards, those with convictions and risky professions.

Trophies and cash prizes were presented by chief executive Eric Galbraith. He commented: "I commend all those shortlisted for providing a valuable service to the British consumer and the insurance sector, and would like to congratulate the winners on their fantastic and well deserved achievement."

Roll of honour

Overall winner of the BIBA Journalist of the Year

James Daley,
The Independent

Consumer Broadsheet

Christopher Browne,
The Observer

Consumer Tabloid

Helen Loveless,
Financial Mail on Sunday

Best Consumer Advice

Kirstie Redford,
Freelance

Trade Research

Marcus Alcock,
Freelance

Trade Feature

Michael Faulkner,
Insurance Times

Trade News

Stephanie Denton,
Post Magazine

Regional

Adrienne McGill,
The News Letter

Gary Hyndman Most

Promising Newcomer

Peter Madigan,
Cover Magazine



Airth Castle will host BIBA Backing Scotland 2006

BIBA's Scottish Region gears up for 2006 conference

This year's BIBA Scotland Conference takes place on 15 November at Airth Castle, near Stirling.

It is an idyllic setting for a top class event, which has secured sponsorship from major insurers including Norwich Union, NIG, Zurich and AXA.

For the second year, the event is titled the BIBA Backing Scotland Conference, with much of the planning and organisation being handled by regional executive, Clive Hurn, who comments: "We were delighted with the response to last year's conference and this one promises to be even better. The content will be topical and relevant and of course, there will be plenty of opportunity for networking."

He is being supported in the event management by leading Scottish conference organisers, Meeting Makers.

Last year, there were 160 delegates at the conference, which took place in November at the Stirling Management Centre. The event was oversubscribed, but

Mr Hurn believes this year, it will do even better and that the number of delegates will exceed 200.

Many of Scotland's leading brokers will be present, including Lorraine Dilleat, chairman of BIBA Scotland and chief executive, Eric Galbraith.

BIBA Scotland has also


continued to work closely with the Scottish Parliament and once again, there will be a member of this attending to give a brief presentation. The event will be compered by Chester Studzinski of GAB Robins, a well-known figure on the circuit, who is an exceptionally able master of ceremonies.

There will also be plenty of networking opportunities throughout the day and lunch, tea and coffee breaks will be included in the delegate fee. Delegates who attend this one day conference will also be eligible for CPD points.

Delegate packs will be issued in early September and these will provide full details on registration.

While the event takes place on a single day, it is expected many brokers will choose to arrive the night before so that they can enjoy the historic setting and beautiful surroundings of Airth Castle, which is now a luxurious hotel and spa.

The glorious building dates back to the 14th century and was once owned by the family of Robert the Bruce. Members – or their partners – who feel they would benefit from some pampering, will also enjoy the facilities of the hotel's Cloud Nine Leisure and Beauty Spa. BIBA will be negotiating a special rate for members, with details to be supplied nearer the time.

 **Further details of the conference will be provided to members shortly. Meanwhile, to register interest or if you have queries, please contact the organisers Meeting Makers on 0141 4341500 or email biba2006@meetingmakers.co.uk**

You can also contact Clive Hurn, the BIBA Scotland regional executive, on 07836 609960 or email hurnc@biba.org.uk

Event highlights

The programme will cover:

- compliance and regulation
- the Financial Services Authority, who will have a stand and are sending Andrew Honey, head of insurance, small firms division to present
- claims panel – a forum on current issues
- business case study from a local broker
- inspirational speakers
- trade stands
- BIBA schemes and facilities exhibitors.





Key dates for your diary

West Midlands

Tuesday 26 September 2006

BIBA Golf Day at Bromsgrove Golf Centre – £35 for the day, including a meal. All are welcome. Details available from Sue Dimmock at Millennium Insurance Brokers. Tel: 01952 282630 or email: Sue.Dimmock@millenniuminsurance.co.uk

Friday 20 October 2006

Annual Dinner – with comic after dinner speaker, Adger Brown – at the Burlington Hotel, Birmingham. Details available from Patsy Sweeney at Willis UK. Tel: 0121 214 1653 or email: sweeney@willis.com

West of England

Friday 13 October 2006

Annual Dinner – a special event which includes a collection via a raffle to go to a local charity chosen by the regional chairman. The raffle prizes are funded by sponsorship money obtained from insurers.

Yorkshire and Northern

Thursday 7 September 2006

BIBA Golf Day at Moor Allerton Golf Club, north Leeds. Begins at 2.30pm with usual shotgun start and a buffet meal served at 7.30pm to allow competitors to leave by 8.30pm. There is also the opportunity to win a car in the Hole-in-One competition, as well as individual and team prizes. Details are available from Mark Elvin on 0113 232 0011 or email mark@hnh.co.uk

Friday 20 October 2006

Annual Dinner, sponsored by Hiscox, to be held at the Queens Hotel, Leeds. More information to be supplied. For further details contact Wendy Hardman at Aon on 0113 244 3234.

Training update

The Yorkshire and Northern Region has a strong local regional training programme with a wide variety of courses aimed at broking staff of all levels. For staff with regulatory responsibilities, there is a Compliance Forum on 4 October to be held in Garforth. BIBA's head of compliance and training, Steve White, will also be in attendance. For more details contact Ian Raper (see contact details below).

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Charity champions

A large number of activities are taking place across the BIBA regions this autumn.

Apart from being the ideal opportunity to catch up with fellow members and industry colleagues, BIBA annual dinners often involve a fundraising element.

Barry Blakley, regional executive for the West of England, explains: "We're working right now on this year's annual dinner with current chairman Ian Dickinson and will be announcing the charity involved shortly."

He says the West of England region traditionally organises a

raffle, with the proceeds going to a local charity. This is selected by the regional chairman and raffle prizes are funded by sponsorship from insurers.

At last year's event, held in October, an initial £1,495 was raised and this was then increased to £1,895 following contributions from BIBA members The Jelf Group and John Ekes & Partners. The amount was subsequently increased to £2,000 by way of the dinner account, which went to the Children's Hospice South West (see photo above of hospice fundraiser Caroline Clarke with regional executive Barry Blakley).

Cambridge cocktails

BIBA's Anglia region annual dinner took place recently in the beautiful setting of King's College, Cambridge University.

Regional executive Jo Morgan reports that the evening started with cocktails on the college lawns followed by a superb dinner, fine wine and entertainment. An audience of 200 was regaled by speaker David Shaw who has plenty of insights into the quirkier side of the insurance world. Following dinner, music was provided by the Gentlemen of St John and there was the opportunity for a moonlight punt along the Cam or a nightcap at the bar. During the evening £1,467.98 was raised in aid of The Prince's Trust charity.



**PRESS
BRIEFING**

The World Cup has faded into ever more distant memory, but the insurance market remains a game of two halves.

The price of cover in the commercial market for risks that are exposed to hurricanes continues to escalate. This is true of both reinsurance and insurance, as the crucial 1 July renewals, which largely involve US windstorm-related risks, have shown.

After the up to \$80 billion of losses inflicted by last year's hurricane season, capacity is limited, and where it is available, it is expensive.

But in other areas of the world, and classes of business that are not exposed to natural catastrophes, there is more capacity and price competition.

As the North Atlantic hurricane season gets into full

swing once more, the direction of the markets from here will be dictated by which way, and how strongly, the wind blows.

The severity of the storm season will not only determine whether the price of cover for risks exposed to natural perils continues to rise, but also whether price rises spread to non-catastrophe classes of business.

In the event of another severe hurricane season, press interest is likely to focus on whether the price of reinsurance and insurance will rise further. This will, of course, centre on areas of the world and segments of the market exposed to natural perils. But last year, in the wake of losses inflicted by Hurricane Katrina, there was also interest in whether the ripples would reach as far as UK personal lines business.

Another damaging storm season could re-ignite debate about what this means for the price of home and motor cover.

Conversely, with expectations of an above average storm season, if conditions in the North Atlantic prove calmer than expected, questions are likely to focus on whether in the cyclical insurance and reinsurance business, prices will start to come under pressure.

Andrea Felsted is Financial Times insurance correspondent



Andrea Felsted

Making a difference through public affairs

How local action can bring industry issues into the wider public domain

Insurance is often misunderstood by those in positions of influence, so there is real need to educate those who can make a difference.

This year, BIBA has increased its public affairs work, and will be raising awareness of this throughout the membership. It also wants to encourage more brokers to get involved.

BIBA is using agency Fleishman-Hillard Public Affairs for this work and Gavin Megaw, associate director, says: "Just like the insurance industry, public affairs is often misunderstood and misrepresented. Yet like insurance, public affairs is something every business should invest in."

He argues a public affairs campaign does not have to be large-scale and resource sapping and instead can involve a simple communications programme with local political stakeholders.

Mr Megaw asks: "How many brokers have written to their local Member of Parliament (MP) and Member of European Parliament (MEP) making clear their views on key issues such as uninsured drivers, or continuity

planning for local businesses?"

He adds that many brokers may not be aware that their letters and briefings on key issues could provide their MPs/MEPs with the ammunition they require to stand up and make locally specific points in their respective Parliaments on the issues of the day.

"As a former political spokesperson, I can tell you that

there is nothing so valuable as for a politician to receive opinion from a local business that they can use to promote their views. It is, to a politician, like manna from heaven."

He advises that brokers should offer political stakeholders the opportunity to visit offices, and, more importantly, provide them with a sounding board should they

get any questions relating to insurance.

"This, if connected to the work already being done by BIBA, is a simple but highly effective approach, because you can help them as much as they can help you. By developing such a relationship you will be ensuring that your local MP/MEP sees you as a valuable resource."



IMAGE CORBIS



Emperor Penguin (*Aptenodytes forsteri*)

Within a few hours of the female laying an egg, the male positions it on top of his feet and covers it with a warm fold of abdominal skin.

New life has to be encouraged and protected.

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Strength in numbers

BIBA's membership figures are up, but what are the reasons that motivate brokers to join?

Stephanie Spicer
finds out

By early summer 2006, BIBA had already attracted 170 new members – a marked increase on last year, when 140 new firms joined in total. But, there is no room for complacency and it is constantly working to build on the benefits.

The larger firms of brokers are already BIBA members and the organisation admits the challenge now is to encourage the remaining smaller firms to see the value in membership. Any decent trade association is there to fight for its members, but can only really be successful with its members behind it. "Joining BIBA is a way of showing you back the industry," says Paul Garland, BIBA's membership manager. "The more members we have, the more effective we are. The regulator has stated it wants market-led solutions – and often a trade body is the best source."

Mr Garland says there is no single reason why a broker should join BIBA, because all firms are different. But as the new member firms below explain, solidarity with peers and help with meeting the industry's regulatory challenges are common drivers.

"A key reason brokers join is our influence with the regulator and the fact we can offer our members so much compliance support," says Mr Garland. "Then there is our lobbying and media power. We also encourage our members to interact with the press and local political decision-makers to ensure their voices are heard."

BIBA training sessions help members to fulfil their regulatory requirements, as well as to develop their employees. They are offered at cost price. The BIBA team is also on hand to help with technical insurance queries and those linked to running a firm.

And finally, the range of schemes and facilities for members can provide alternative markets for brokers. Some members have said that access to these schemes is worth the subscription alone.

IMAGE: NICOLA ANTAKI





**Denis Pinnegar, director of group development,
BiB Insurance Brokers, Darlington**

When BiB joined BIBA a year ago, it was in the belief that, in Mr Pinnegar's words: "As a whole, we had a better chance of being influential in this complicated industry than we had as individuals. Although we are a fiercely independent company, we do still need to have a collective voice."

Mr Pinnegar had looked at other insurance industry organisations, but says BIBA was the most attractive. "It was one in which we could participate the most – although you also get out of it what you put into it."

He lists legislative and governmental lobbying, engaging with the Financial Services Authority on issues, and obtaining answers to complicated questions as useful services. "They run across the whole gamut of the industry that we operate in," he says.

Mr Pinnegar has also joined his regional committee. "It is important to network with peer groups and have that exchange of ideas and experiences. Sure as hell, nothing is going to happen to us that hasn't happened to someone else in their business lives!"

**James Truscott, managing director of
WML Insurance Brokers, Bognor Regis**

"Representing a bigger broker, I think BIBA is something you should be seen to be a member of," comments Mr Truscott. "It says you are one of the mature companies specialising in the insurance field and that your interest is in the wider issues of insurance in the UK, rather than just doing your day-to-day business."

Mr Truscott explains that as a broker and an underwriting agency, WML has an interest in talking to both intermediaries and insurers, something BIBA membership obviously enables.

While networking is important, so too are the technical and educational benefits BIBA can offer. "Being seen to be involved in the wider issues and being alert to those is key," he says. "But early advice on any compliance and regulatory issues is something we will be using." He adds his firm will also be using the BIBA training seminars, which are highly competitively priced.

Mr Truscott concedes some may feel subscription costs are high, but points out it means members have to make full use of what the association has to offer. "Just using the training courses, for example, because they are right up-to-date and of good quality – that sort of thing adds value to your company."

**Steve Davies, operations director,
Morgans General Insurance Services (MGIS), London**

Having dealt with BIBA in the past, with previous employers, Mr Davies was keen for MGIS to join as well.

"I knew our membership of BIBA could help us reach a wider audience of clients," says Mr Davies. "When people look for an insurance broker, many look for an accreditation. BIBA is well-known, and an association with it gave us more credibility. People feel BIBA membership means they are dealing with a trustworthy company that will do the job."

This has been borne out, Mr Davies says, by the number of telephone calls MGIS has received since registering the company in the BIBA directory. "We get, on average, 250 calls a month from BIBA referrals. We have been very pleased."

BIBA's own insurance schemes also come in for praise. "Its schemes are wider than the general market," comments Mr Davies. "A lot of our clients have general subsidence risks which BIBA schemes cater for, and we do a lot of directors' and officers' policies. Many of these schemes allow you to receive a quote online, get the documents turned round and back out again. That's very important to us."

But a common goal with other brokers is also important. "The more of you that get together in one place the more you are heard, especially with FSA issues. Alone, you can't do a lot, but together you can influence things," adds Mr Davies.

The SME insurance maze. Find the easy way out.

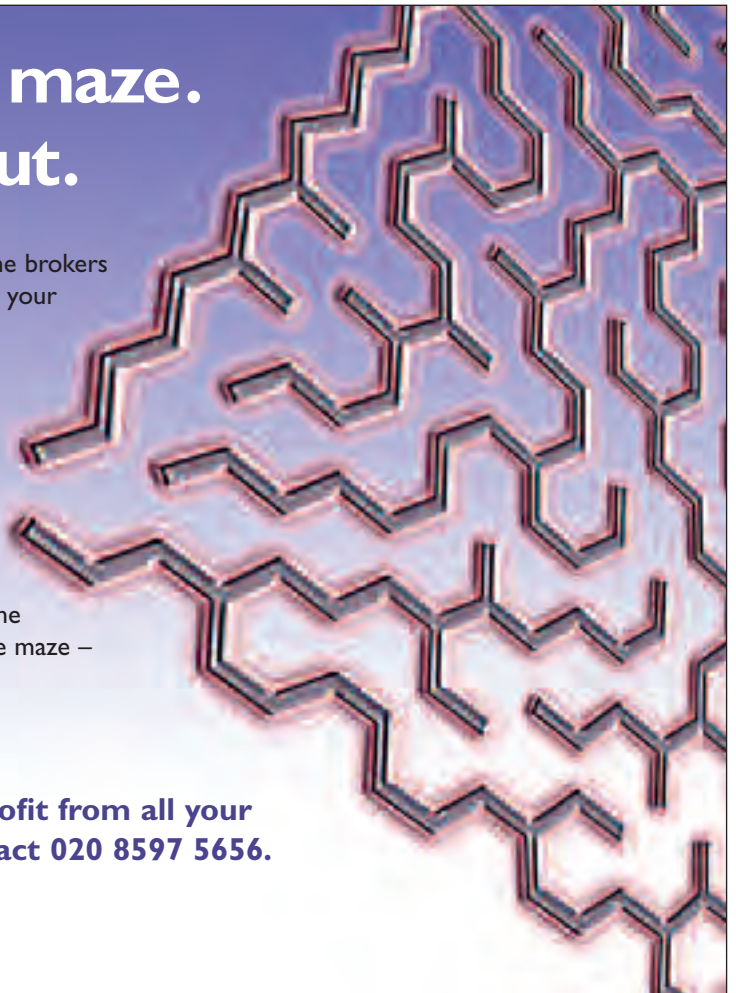
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Telling it like it is

Following a disaster, the work of insurers is under intense scrutiny but they are meeting this with increased openness. **Scott Vincent** examines these changing attitudes

When the eyes of the world fall on any major disaster, the response of the insurance industry is critical. Often, the environment is now far more litigious and insurers also face working in the media spotlight.

But, whereas once most looked to reveal as little as possible, attitudes are changing.

Stephen Haddrill, director general of the Association of British Insurers, says: "When a flood occurs insurers are on the ground within 24 hours. But we need to make sure that the public knows this. That is why the insurance industry has been looking at ways in which we can develop consistent messages to reassure householders and businesses that insurance is there to help when major events, such as flooding or an incident like Buncefield, occur. Often in such circumstances, insurance companies will proactively contact policyholders who may be affected, rather than wait for them to make a claim, thereby helping to ease the burden."

He adds that the coming months will see increased efforts to ensure there is greater understanding. "The industry already does a significant amount to communicate to its customers, and the media, relevant information when major events occur. However, this work will be strengthened by developing collective messages that focus on the human side of these events and the part that insurance plays in getting things back to normal. We look forward to starting work with our industry partners in the autumn."

Partnership matters in the event of a large claim. According to Andrew Dear, director of technical services at loss adjuster Ashworth Mairs Group, communication is a vital element in the disaster recovery process.

He points out this needs to be strong between the insurer, broker and loss adjuster to provide support to the individual or business affected by the disaster.

In January 2004, this process was put to the test when severe storms brought



Insurers are on the ground within 24 hours

The Buncefield oil depot fire caused devastating damage to nearby businesses

Such was the ferocity of the Buncefield fire, the losses could only be assessed some days later

Picking up the pieces

In 2004, a major explosion in the Glasgow-based Stockline plastics factory resulted in nine deaths and injuries to 46 people. More than two years later, it has been announced that the companies that operated the business are to be prosecuted for alleged health and safety breaches.

But, while all the investigations have been taking place, insurer Allianz has focused on helping those injured. Divisional claims manager Roy Hebburn says: "It helped that we were the sole insurer as we could start orchestrating activities at once. We put together a senior claims team that would be dedicated and importantly, on the scene to make decisions. We soon had GAB Robins on board as adjusters and the forensic scientists, Burgoynes. We quickly appointed lawyers in Scotland and London, too."

He says that while legal representation is essential, Allianz was also determined not to hold up matters. "Early on, there was a huge amount of adverse publicity, with ex-employees saying there was little regard for safety. As insurers we knew we could also expect negative press. We started engaging with claimant lawyers straightaway."

Mr Hebburn stresses communication had to be honest. "We assembled a media team that would say what we were doing. We provided a counselling team for the many who were suffering. We organised rehabilitation for those injured and provided hardship payments and we are settling claims. In one case, a visiting director lost both his legs in the disaster and we've put in adaptations to his house. He has since been able to return to work."

flooding to northern England. The town of Carlisle – 12 miles south of the border with Scotland with no other conurbations nearby – was worst hit, with more than 8,000 residents evacuated and severe damage to properties.

Mr Dear says the Carlisle floods provided an opportunity to see the insurance industry working at its best. "As soon as a major incident occurs, we, as a loss adjuster, proactively contact our insurer and broker clients to establish whether they have policyholders in the affected postcodes. In the case of Carlisle, we had contacted all policyholders within 24 hours to establish whether they needed support. This creates the right reputation – we are there in a crisis."

Devastating

One major disaster of recent years was the explosion at the Buncefield oil depot last December. It was the largest explosion and fire in Europe for more than 60 years and caused devastating damage to businesses at an adjacent industrial park. Mr Dear explains communication was vital in helping these businesses recover.

"On a daily basis, AMG was talking to the insured (Fuji Film), the broker (Marsh) and the insurer (Tokio Marine Europe), acting as a pivotal point and ensuring everybody in the chain was fully informed on developments. This approach is essential to provide the reassurance and support needed during a crisis situation and this level of contact should be maintained for one to two weeks. At an industry level we could and

should be doing more collectively to communicate the value we bring to the major loss scenario."

Preparation

After the Buncefield explosion, Marsh sent in a security firm to ensure its clients' assets were safe, and took steps to make sure its clients suffered as little disruption to business as possible. Caroline Woolley, claims consultant at Marsh's forensic accounting and claims services practice, explains: "In the event of a disaster, we concentrate on getting the business back up and running. We represent the insurers and take that burden away from the client."

She says as part of the claims process, her unit determines what clients need for interim payments to help with their cash flow. "This early payment means they have cash flow to continue operating their business. The business continuity management team also visits the company in advance and advises the business on how to prepare for a disaster. This pre-loss service looks at property cover in a policy and provides a business interruption exposure review, to make sure they have appropriate cover in the event of a serious incident."

All of which is far less publicised than any disputes that arise in the aftermath of disasters. While, by nature, newspapers will often report bad news rather than good, the work done by brokers, loss adjusters and insurers in the aftermath of a disaster provides the stability that can help individuals and firms begin the long process of recovery.

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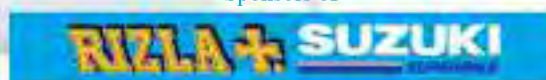
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Stormy weather

It is not just big business that is affected by climate change – smaller firms need advice too.

Jane Pendlenton provides guidance on how brokers can inform clients about a potential crisis

Brokers' clients, large and small, will have to adapt to climatic conditions changing at a rate human civilisation has never previously experienced. Significant changes are already occurring here in the UK and are projected to continue.

But what are these changes? And, how can the small business sector, vital to the wellbeing of the UK economy, act to increase its resilience and reduce its vulnerability to the changing climate?

Emissions from human use of fossil fuels are thought to be the predominant cause of climate change, and throughout this century, we expect the changes we are already observing to intensify.

Rising sea levels, changing precipitation patterns, an increased intensity and number of extreme events and dramatic effects on biodiversity will cause severe impacts for human civilisation – unless we act now to curb our emissions.

Even so, the urgent efforts we must make now will not allow us to escape climate change altogether. Due to the inherent inertia of the climate system, our past greenhouse gas (GHG) emissions will be the main influence on our climate over the next 30 to 40 years (see diagram one).

Impacts

Successful assessment of the risks small businesses face requires an understanding of the expected impacts and confidence in the likelihood of their occurrence. We can start to achieve this by examining the key messages of the UKCIPo2 climate change scenarios, produced for the UK by the Hadley Centre for Climate Prediction and Research.

The UKCIPo2 scenarios are derived using modelling techniques based upon our best understanding of the Earth's climate system, and show how key climate variables may change given different assumptions about future growth of GHG emissions.

We expect increases in the UK annual

“ ”

... the reliability of these models is tested by running them backwards over recent and long-term climate history

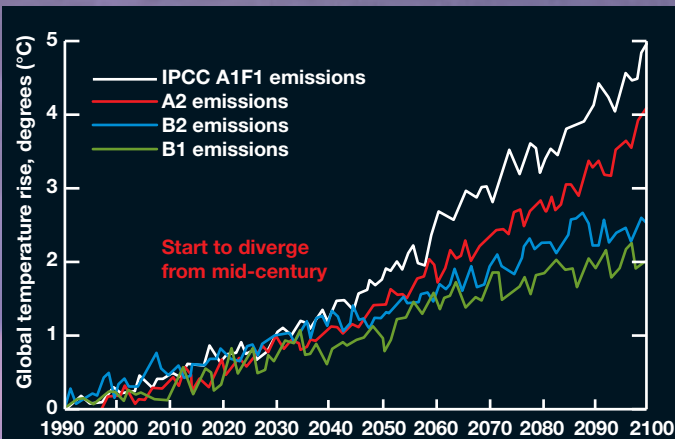


Diagram one: The Hadley Centre climate model outputs show an expected temperature rise around 1°C by the 2040s relative to 1990, largely independent of our emissions path. The scenarios are those used by the Intergovernmental Panel on Climate Change and range from a high emissions path shown in white (A1F1) to a lower emissions path represented in green (B1). The range for global rise in temperature by 2100 is between 1.5 and 6 degrees although some models predict greater warming



Climate change is a reality... we must face its unavoidable impacts

average temperature of around 1°C by the 2020s – the period from 2011 to 2040 – and up to 4°C by the 2080s. This increase will drive changes in all climate phenomena, including changes to seasonal patterns of precipitation and the number and intensity of extreme events.

It is important to note the 0.8°C rise we have experienced to date (relative to a 1861–2004 baseline) has already led to significant impacts, including a rise in sea level of 10 to 20cm, and reduction of arctic sea ice by some 15 to 20 per cent. It is believed a rise of 2°C may be enough to push us into dangerous climate change.

To estimate confidence in their ability to describe our future climate, the reliability of these models is tested by running them backwards over both recent and long term climate history.

Convincing

These ‘back casts’ show the models can reliably describe the past and that the rapid increase in GHG emissions over the past 150 years provides the most convincing explanation for the observed rise in global temperature to date.

Projected changes for the UK up to the 2040s can be summarised in the following key climate change messages:

- hotter, drier summers
- reduced summer rainfall and increased

temperatures, increasing drought and subsidence

- milder, wetter winters
- continued decline in snowfall and very cold spells, and greater proportion of UK precipitation falling in the winter
- increasing intensity and possibly frequency of extreme events
- increases in torrential downpours, making flash flooding and landslides more likely. Increases in very hot days and heatwave conditions (in summer 2003, 30,000 people died across Europe).

Extreme events

These changes will drive an increase in the number and severity of claims made by UK businesses, particularly from flooding, subsidence and extreme events. Without action to manage these risks, this may result in the reduced availability, restriction, or withdrawal of cover.

In general, businesses most at risk from these impacts will be those currently significantly affected by the weather, or those investing in assets with paybacks over a long time period – particularly premises or infrastructure. Impacts will occur across all business areas, and a full scoping exercise can bring to light unexpected vulnerabilities in logistics, markets and business operations, but also reveal opportunities for new growth.

UKCIP’s adaptation wizard, a web-based tool suitable for proceeding from an initial scoping of climate risks to a full assessment of adaptation options, provides a comprehensive guide to assessing climate risk both for businesses, and their providers of insurance products.

Fundamental to the risk management process is the assessment of current vulnerability to weather.

Overlaying the key climate change messages and if appropriate, examining the scenarios in more depth for a particular region or climate variable, then allows the identification of areas of greatest concern – or opportunity.

Small businesses will face similar risks to larger business, but are likely to have fewer resources to manage them. It will be

important therefore for smaller businesses to work with their brokers to address business continuity planning and risk management issues due to climate change impacts, and to ensure that an appropriate level of insurance is held.

Involvement with regional climate change partnerships may provide a useful additional resource and access to existing expertise.

Climate change is a reality, and as we strengthen efforts to reduce its causes, we must face its unavoidable impacts. We are well equipped, however, to do this.

Brokers and small businesses will be prepared for the impacts of climate change if they fully integrate emerging climate risk into existing risk management processes, and will in this way play an important role in ensuring a resilient and well-adapted economy for the UK.

Jane Pendleton is project officer with UKCIP’s business engagement team



To find out more, contact Steve Foulsham of BIBA’s Property Committee at foulshams@biba.org.uk. BIBA is a member of the associate Parliamentary group on flood prevention. To contact UKCIP for further information on climate impacts and resources phone 01865 285 717 or email: enquiries@ukcip.org.uk or www.ukcip.org.uk



There are few sectors more cut-throat than SME, but brokers are determined to keep the lion's share of the market, says **Marcus Alcock**

Holding on tight

There's no getting away from it, and we're not talking about the timing of Tony Blair's departure or what Sven Goran Eriksson will do next. No, for the majority of the UK insurance industry, it seems that the only area worth mentioning at the moment is the small to medium enterprise (SME) sector.

Now that the personal lines market has become almost exclusively commoditised and much of the volume business has been taken away from the hands of the intermediaries and smaller underwriters into the hands of the big brands, the new battleground is very much the SME sector. And for insurance brokers this transition is especially true. Whereas once much of their bread and butter business may have come from the personal lines sector, this is no longer the case for many brokers, despite the pockets of good practice that exist and the few out and out personal lines specialists who have managed to maintain a loyal customer base.

The reality is that the main area of competition in UK insurance, and one that has been getting progressively more crowded for some years now, is the mid-market commercial sector. For the fact of

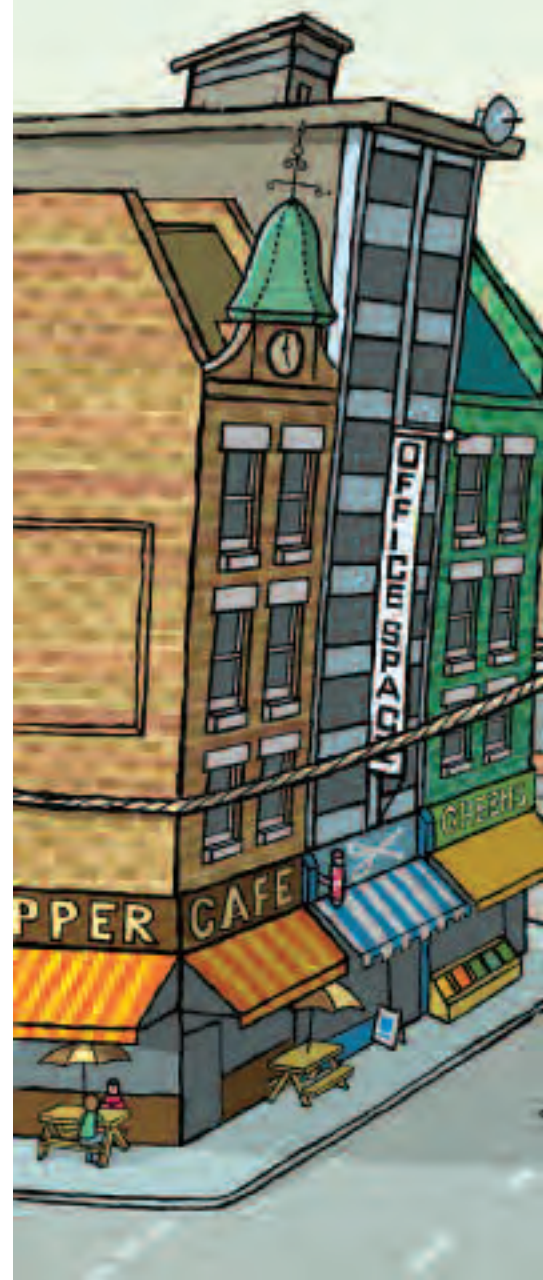
the matter, no matter what some pundits may tell you, is that this too has become an area that has become increasingly commoditised in recent years and therefore one that is seen as an easy way to capture a relatively quantifiable policyholder base with a decent claims record. Who wouldn't want to get involved?

Battle is on

Therein lies the rub. For while brokers have had some 20 years or so to get used to the invasion of the direct writers and other brands into what was once their exclusive preserve in the motor and home market, the commercial sector has always been seen as something quite different, positively sacrosanct. Surely a small office policy isn't just an off-the-shelf product in the same way that a standard motor policy is? Surely the SME sector is one where the relationship with the broker is key?

Yet it seems that, in the current market, the SME sector really has become the new personal lines. Not only are more and more brokers trying to get in on the act, direct writers have also entered the fray. The battle is on.

Ian Richens, chief executive of



“

SME is becoming the main hunting ground for a lot of companies because it's easy to sell online



Oxfordshire-based broker FM Green, agrees that the SME sector is now the main area of competition for UK brokers. "It's becoming the main hunting ground for a lot of companies because it's easy to sell online," he says. "It's easy to rate, so a standard insured's first £20,000 is two per cent and then it's a sliding scale after that. Then the expertise comes in, where you have situations such as a guy with a 75 per cent flat roof or someone whose premises are on a flood plain. That's when you have to start putting in excesses for certain types of risk."

According to Mr Richens, there is no getting way from the fact that price is the

key component in terms of what a customer is looking for, and the consideration that will really matter at the smaller end of the scale. "Certainly you differentiate on price because this sort of sector is cheap as chips and it's a question of being competitive which usually gets the business." However, he adds, understanding your client's needs is also important.

Added value practitioner

"Take the licensed trade, which has a change of tenant and needs a new quote by one o'clock," he explains. "You need to run a quote off the screen or give them an

Mystery shopper

BACKGROUND

Business: Tomato Design Ltd, a design and marketing company that has been going for just over a year. Its business is designing promotional materials for the financial services sector.

Annual gross turnover:

Estimated at £216,000.

Staff: One director and two employees.

Location: Shoreditch, London. Part of an office block with alarm system, main key for the building and own key for the office. Brick building, used only for offices, with no unusual features and in good condition. Monthly rent paid to the freeholder.

Contents for insurance purposes:

£26,000 of IT equipment and £2,000 of other office equipment. No items that would be taken off-site, such as laptops.

Insurance required: Standard small office insurance sought, covering buildings and contents and employer's liability.

EVALUATION

Marsh:

Service: 7/10

Quote: £568.36

Overall: 7/10

Comments:

Straight through to someone on the phone. Very straightforward and very quick to come back with a quote.

HSBC Insurance

Brokers:

Service: 5/10

Quote: £531.63

Overall: 6/10

Comments:

Slowest in getting back to me, though the quote was reasonably competitive in the end.

NU Direct:

Service: 3/10

Quote: n/a

Overall: 0/10

Comments:

When I informed the person that we were a design company, they said they could not insure us. Perfunctory service.

Rowett

Insurance

Broking Group,

St Austell

Service: 8/10

Quote: £513.64

Overall: 8/10

Comments:

Excellent service, and although not as quick as I would have liked, the broker was first back with a full written quotation, which was also the cheapest.



IMAGES: FRANCES CASTLE

the short term, is the possibility that the owners of small business are becoming more aware of the importance of risk – a fact that could work in brokers' favour if they market their risk management expertise. According to a recent survey of UK SMEs by the Institute of Chartered Accountants in England & Wales (ICAEW), expenditure on risk management, including the costs of insurance, management and staff time, security and internal and external audits, was found to be an average of £44,000 a year at the small end of the spectrum in 2005. According to Clive Lewis, head of SME issues at the ICAEW, spending on risk management is expected to rise over the next two years, with businesses now more aware than ever of the potential risks that can affect them, with the "anticipation of risk increasing".

Commoditised

Despite this, even Mr Finch is pessimistic about the chances of brokers maintaining their current market share if things persist as they are in the small commercial market. "If the broker doesn't add value, then the same thing will happen as in the personal lines market, where a constituency of firms will come along



... if you are a broker in the SME market you have to position yourself as an added-value practitioner

instantaneous quote from an underwriter in the office, otherwise they'll go elsewhere."

Some people are a little concerned by the over concentration on price that threatens to subsume the SME sector, however. Kevin Pallett, managing director of underwriting agency Fusion, is one such voice. "The danger is it's going to become the new personal lines," he comments. "Where the only criterion the client takes into account when choosing insurance is price. If that happens then brokers' days are numbered, because direct writers can beat them at that. So if you are a broker in the SME market you have to position yourself as an added-value practitioner, where the insurance may cost you a little bit more but in the end it's better value."

In Mr Pallett's opinion, there will be real difficulties ahead for brokers if they do try and go head to head on price: "It will

become like personal motor, with people showing little imagination and all you're doing is saying 'we'll do it cheaper' then brokers will have a rude awakening." Instead, he insists, brokers need to market themselves as professionals who can offer proper advice to match a policyholder's needs and make sure that they have the correct cover.

Risk management

Yet the picture is not necessarily as difficult as it seems at first glance, however. As Alec Finch, chairman of broker Alec Finch Group, points out, there is a need to examine what is meant by the mid-market anyway. "My personal view is that you have to decide what SME is," he says. "We tend to say SME when what we really mean is small commercial business, but SME can actually entail some quite large businesses."

Another cause for optimism, at least in

who'll prefer the direct option," he comments. "That's the problem when these things get commoditised – it's a question of distribution, rather than of broking."

So does all this come down to a battle over price versus added-value? Perhaps, but that does not mean that the savvy insurance broker needs to be unduly concerned, if it wants to remain a significant force in the small commercial arena. History, for one, is on their side, and the feeling is that many will have learnt the lessons of what happened to the personal lines market and are better prepared to fight this particular battle. As Mr Finch says: "I don't think that brokers are complacent. They have seen what's happened in the personal lines market, and inevitably in this one there will be changes in buying habits. But brokers will make sure that they retain a share of the market."

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How brokers should deal with the MID, making the most of cross-selling opportunities and more on anti-smoking legislation are this issue's topics

SALES STRATEGY LATEST

Cross-selling is more important now than ever before, since we're in one of the softest markets the industry has experienced for a long time.

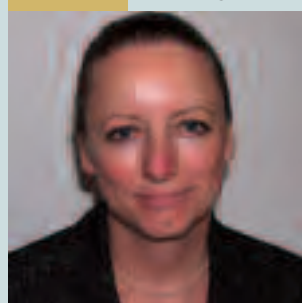
After two years of preparation and implementation of regulation, brokers and insurers alike entered 2006 with a view to increasing their top line, grabbing market share and driving business growth. This, inevitably, has resulted in soft rates.

The question is how do brokers grow in a marketplace that is arguably overpopulated and under threat from emerging markets?

It's not easy. Direct mailing activity is experiencing falling response rates, while databases can be expensive, unreliable and may be out of date. In addition, the number of registrations is increasing with the Telephone Preference Service – the service that prohibits unsolicited marketing activity. And, even for those who can afford it, TV advertising is having less impact. At the same time, there is

an upward trend to buy products and services online and insurers are courting corporate partners in order to target their brand-loyal customers.

In order to compete, brokers need to seriously consider cross-selling as an essential tool – if they are not already doing so – to combat pressures. Brokers are in a unique position to sell



Fay Rolland

alternative products as they have existing relationships. The ability to assess what products your clients have with you in order to identify gaps is vital. When Spain's largest bank, Banco Santander, purchased Abbey National it was convinced savings and business growth could be achieved through technology. Its Parthenon system enables staff to see all the products a customer has on a single screen. Staff identify the gaps in customer portfolios and suggest loans, mortgages and savings accounts.

High net worth (HNW) household is a crucial product to consider for cross-selling opportunities. Directors of commercial clients will probably need a HNW household policy. High performance or high value cars generally go hand-in-hand with a HNW lifestyle.

Frequent travellers and purchasers of travel insurance may also be worth targeting. The important thing is to use the information you already have at your fingertips, before someone else beats you to it.

Fay Rolland is Sterling Insurance Company's director. The company is BIBA's high net worth scheme provider

Anti-smoking laws in Scotland and vehicles

In the last issue of the broker, we explained how, by the end of 2007, all workplaces in the UK must be smoke-free. Laws have already been passed in Scotland for this, but many may also not be aware that the rules also apply to certain categories of vehicle – and so brokers may want to advise clients of these changes, where appropriate.

The vehicles affected are commercial vehicles of all types plus vans, buses and coaches, private hire vehicles and taxis. Company cars and vehicles used solely for private purposes are exempt. The new law applies to any relevant vehicle, irrespective of its country of origin, while it is in Scotland. So, anyone driving over the border on business, for example, must comply.

The operator must take 'all reasonable precautions' to ensure no one smokes in the

vehicle while in Scotland.

'No Smoking' signs must be displayed so they can be seen and read by persons either in or approaching the vehicle. The sign – showing the international no smoking symbol – must state that the vehicle constitutes a no smoking area and that it is an offence to smoke or knowingly permit smoking in it and give a name of someone to whom a complaint may be made if the law is contravened.

Individuals who smoke in such vehicles will be liable to a fine of £50. Those in control of relevant vehicles could be liable to a fine of £200 if they do not take reasonable action to prevent someone smoking, or provide signage. Failure to pay the penalty amount may result in substantial fines.


 Example signs can be found at www.clearingtheairscotland.com



IMAGE: ISTOCKPHOTO



Making MID work better

The Motor Insurance Database (MID) was developed in order to combat the costly problem of uninsured driving. But for brokers and the public alike (those who have even heard of it) there is a perception that it simply means more red tape. This may be because of the Fourth EU Motor Insurance Directive, which makes updating MID a legal requirement.

Brokers can play a key part in informing clients of the database's purpose and, in particular, why it is crucial that the UK cracks down on uninsured driving. It makes sense to have a formal procedure in place so that you can help your clients and insurers meet their MID obligations. Indeed, MID updates should be built into your processes and procedures.

The following top tips should make handling MID requirements more effective.

For MID in general:

- pass data to insurers as quickly as possible and, if necessary, focus on the data that is needed for MID – don't let delays with non-MID data prevent you from sending MID data
- make sure electronic data interchange transmissions are not delayed in any way and that they are made daily
- confirm all renewals by the renewal date – insurers are increasingly lapsing policies automatically if confirmation



The Motor Insurance Database helps police forces to crack down on uninsured drivers

IMAGE: ISTOCKPHOTO

- has not been received
- all staff handling motor insurance need to be aware of the importance of submitting MID data quickly and accurately
- for manual business, try to meet insurer requests for immediate notification of cover
- process vehicle changes as soon as you have been notified.

For commercial policies (MID2) in particular:

- encourage fleet and motor trade policyholders to report vehicle changes immediately – to you, their insurer, or directly to the MID, depending upon the agreed process
- raise your clients' awareness of MID, its objectives and the new targets and help them

- understand and meet their MID2 legal obligations
- maintain regular contact with clients who provide vehicle data directly to MID2 to help ensure their continuing compliance and if necessary, assist clients and insurers to improve the position.



If you have specific MID questions, you should first contact the insurer concerned. But, if it is unable to answer the query, email the Motor Insurers' Information Centre at brokers@mib.org.uk The MIIC, a division of the Motor Insurers' Bureau, is responsible for all aspects of the MID and welcomes any tips that brokers may care to share

What data is needed to make MID effective?

Timeliness and accuracy of all policy and vehicle data is important to brokers, clients and insurers and your support in providing data quickly and accurately is appreciated. The following data is key to making MID more effective:

MID1:

- policy number – if assigned by you
- effective date/expiry date – for new policies or changes to existing ones
- policyholder name and address
- named or excluded drivers – where required
- permitted driver and class of use requirements
- vehicle registration mark.

MID2 policy details:

- effective date/expiry date – for new policies, or changes to existing ones
- policyholder name and address.

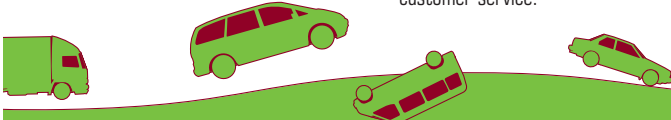
MID2 vehicle details:

- vehicle registration mark
- vehicle "on-dates" and "off-dates" – the date(s) the vehicle starts to be covered under the policy and the date(s) it stopped being covered.



Further information is available in a document on the broker page of the MIIC website www.miic.org.uk/brokers/best_practice.htm

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Softly does it

Many junior staff would benefit from learning soft skills. The new BIBA Business Skills Model is an ideal solution, as **Steve White** explains

Many brokers fail to take business – or soft – skills training seriously, but it can be crucial to ensure employees are competent.

At BIBA, our working definition of competence is “the appropriate combination of knowledge and skills to perform the required role,” and this incorporates both technical and soft skills.

As a sector, brokers are traditionally used to providing technical training for staff and encouraging participation in the formal qualification process, such as the Chartered Insurance Institute



I liked the fact that the course requires interaction by the delegates

examinations. This addresses the ‘knowledge’ element of the competence definition, but what about the ‘skills’ element?

It is clear that soft skills training is underutilised, which is why BIBA has created, piloted and now launched a solution for members, specifically aimed at junior employees, or those new to the industry.

The BIBA Business Skills Model is a one day course at introductory level and has modules in:

- communication skills
- interpersonal skills
- negotiation skills
- teamworking.

This was ‘road tested’ recently (see box) by a number of senior broking staff to find out if the content was relevant for its intended audience.

Full details are included in BIBA’s Autumn 2006 London training programme and it can be delivered to groups of local brokers in-house if preferred.

Steve White is BIBA’s head of compliance and training

Case study: Testing the Business Skills Model

A group of experienced brokers in the Bristol area recently agreed to pilot the BIBA Business Skills Model to find out if it would suit their junior employees. They included Val Page, commercial team manager of the Jelf Group, and Richard Hooper, group compliance manager of Linaker-Western.

Ms Page says that Jelf would find the course useful as her company already offers a range of technical training and so soft skills would be complementary.

“I liked the fact that the course requires interaction by the delegates to reinforce learning – and the icebreaker was very entertaining with regard to the first piece of music purchased – I hope that the outcome would not be quite as embarrassing for younger delegates!”

She adds that in the communication skills module, the sessions on body language, listening and feedback were all very useful and, on the interpersonal skills module comments: “I think that this is a helpful session for delegates in more junior roles as it raises awareness of differing types of behaviour and will hopefully encourage a more positive and assertive approach.”

Meanwhile, Mr Hooper says while the course was intensive, the one day format would suit the many firms which are pressed for time. He comments: “I found the teamworking module especially worthwhile and aiming this at younger staff will give them the foundation to appreciate the importance of working as a team. All in all, I think that the one day course will be valuable and in my view it does give enough insight into the various topics for its intended audience.”

IMAGE: ISTOCK

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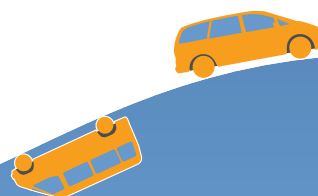
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Better than ever

CNA has expanded its excess liability online offering, while Equity has enhanced its personal lines administration facility, reports **Graeme Trudgill**

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- 29 Risk Management
- 30 Telecoms
- 31 Conflict Investigation Service

Excess cover made easy

Following recent significant enhancements, cnaexcess.co.uk now gives online access to excess public and products liability insurance for small to medium sized UK businesses.

The initial cnaexcess.co.uk site was built with the construction industry in mind to provide a system that gave brokers the control, speed and convenience required when insuring construction businesses. They often need to provide proof of insurance prior to letting contractors on site – particularly within the public sector and cover could be arranged from the comfort of the broker's own office.

CNA subsequently received feedback from users who felt the product was equally well suited to providing instant cover for all businesses, not just construction. Whatever business the client undertakes, there is an increasing need for higher levels of public and product liability insurance. Reasons for this include:

- demands of local authorities, who increasingly require all contractors and suppliers to carry a minimum £10 million of cover
- demands from customers, for example, FTSE companies, that require minimum insurance limits of £10 million and greater
- defence costs, awards and the frequency

of large losses are all increasing and failure to adequately insure could lead to bankruptcy

- the primary insurer may not be able to provide full limit of insurance required by the client and this is where cnaexcess.co.uk can help.

The site enables brokers to obtain this additional cover at competitive premiums and issues full policy documentation online within a few minutes.

Key features include:

- covers more than 1,600 businesses
- up to £10 million additional cover available above the underlying limit
- quote, bind and issue documentation online
- ability to cover USA/Canada exports
- available for UK-based companies with a turnover up to £50 million. Higher turnovers can also be bound online following approval from a CNA underwriter
- all major insurers' wordings accepted
- bind mid-term endorsements



Whatever business the client undertakes, there is an increasing need for higher levels of public and product liability insurance

- and manage renewals online
- ability to cater for short period contracts.
- Key benefits include:
 - available 24 hours a day, 365 days a year
 - access to experienced underwriters
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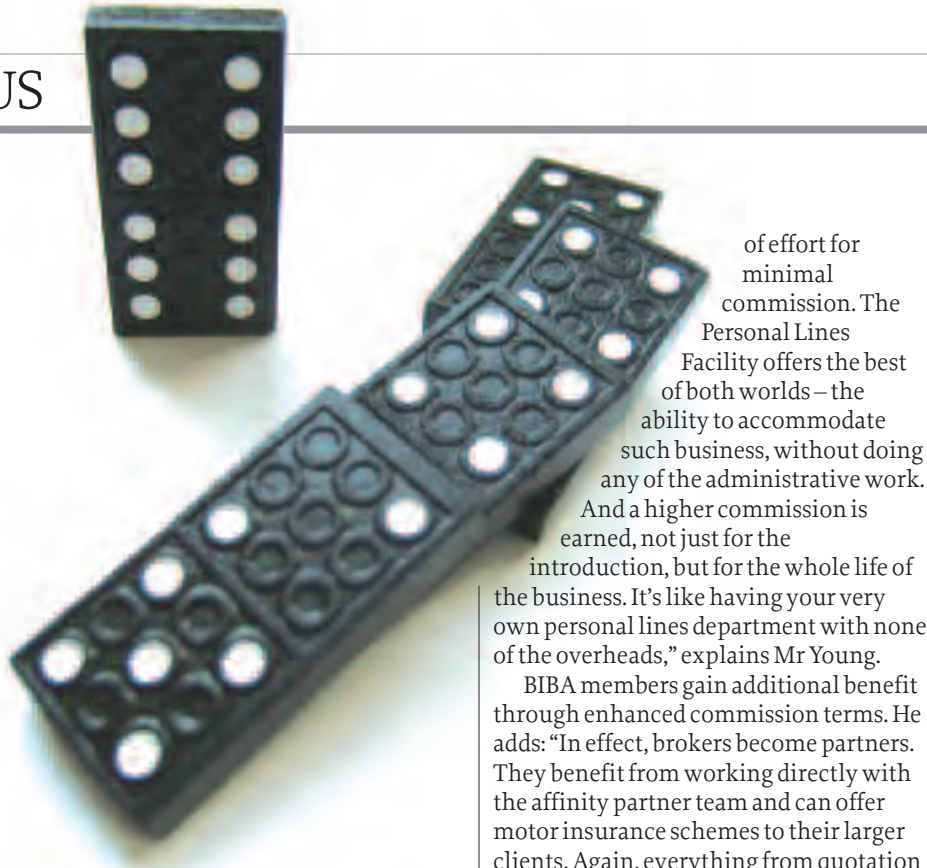
Brokers can register to use cnaexcess.co.uk by visiting the site.

Contact: 0800 028 2501 or email cnaexcesssupport@cnaeurope.com

Keeping it personal

Many brokers are concerned that ever-increasing administration costs, or indeed their lack of administrative back-up, is eroding motor insurance profits.

The Personal Lines Facility offered by Equity enables brokers to transfer part or all of their personal lines business to a specialist who handles the entire process. "The results are immediate – freeing-up valuable resources, allowing them to focus on core activities and reducing costs at the same time," explains broker



development manager, Steve Young. A similar service was previously offered by Boncaster, but this company has been re-branded and now trades as Equity Insurance Brokers. The service has been enhanced and upgraded to cater for today's streamlined market arena.

"No matter how obliged brokers may feel about accommodating their clients, personal lines business, and in particular motor insurance, still requires a great deal

of effort for minimal commission. The Personal Lines Facility offers the best of both worlds – the ability to accommodate such business, without doing any of the administrative work. And a higher commission is earned, not just for the introduction, but for the whole life of the business. It's like having your very own personal lines department with none of the overheads," explains Mr Young.

BIBA members gain additional benefit through enhanced commission terms. He adds: "In effect, brokers become partners. They benefit from working directly with the affinity partner team and can offer motor insurance schemes to their larger clients. Again, everything from quotation to claim is handled, as the facility provides focused sales teams, working seven days a week, to cope with the high volume of enquiries and responses traditionally generated."

Contact Steve Young on 01277 206276 or email steve.young@equitygroup.co.uk

Graeme Trudgill is BIBA's technical services manager

PI MATTERS

When to notify a claim

A broker's professional indemnity insurance policy imposes a duty on it to report all circumstances which may lead to a future claim.

If a broker does not report a particular circumstance and it later leads to a claim, the insurers may not be liable.

It is vitally important to comply with this duty as policies are renewable annually, operate on a claims-made basis and have notification conditions which can be onerous.

If renewal takes place between the circumstance occurring and notification to the insurers, there is likely to be a breach of notification conditions. If a broker changes insurer, the situation becomes more difficult. The claim may be repudiated by the previous insurers for being outside the period of insurance and by the new insurers as a circumstance known at inception.

Brokers may be nervous about notifying debatable circumstances because they are concerned that this may make them appear a poor risk to their insurer purely because of the volume of circumstances that have been reported. The concern is this could affect their future PI rates and terms – especially as they will have to declare this information.

It's always advisable to adopt a cautious approach and to alert your insurer to any complaints which could have the potential to become a claim.

So when does a complaint become notifiable? It can be considered as any complaint which could lead to the broker making a claim on their PI insurance. A complaint about poor service standards, for example, would not normally be a notifiable. However, if this also questions the suitability of a policy the broker has recommended, then it may subsequently turn into a claim. In this case, the complaint should be notified.

The best test is to ask yourself: "In the same set of circumstances, would other, similarly qualified, individuals make the same decision?" If in doubt, it is generally wise to make a precautionary notification and, if you're uncertain, ask your broker for guidance.

Neville Miles is managing director at Alexander Forbes Professions, a BIBA-accredited PI broker



Neville Miles



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TOBAs go well beyond being a compliance issue.

Hywel Evans

provides guidance on how a TOBA with a client can protect them and benefit the broker

While the general insurance market has to provide certain compulsory information to their clients, unlike their mortgage and packaged products counterparts, brokers are not bound by regulation to provide this in an Initial Disclosure Document (IDD). Whereas brokers may see an IDD as one-off requirement for Financial Services Authority (FSA) compliance, Terms of Business Agreements (TOBAs) should be viewed in a broader sense.

TOBAs are useful tools that provide consistent information to clients before they enter into an insurance contract. The TOBA can comply with a number of ICOB rules, including the obligation to provide status disclosure information to clients. But, the need to meet some of the CASS – the regulator's rules surrounding client money – requirements was seen as a potential problem. The FSA now accepts that a TOBA is an acceptable way to advise clients of the CASS requirements in respect of holding client money and the duty to notify, obtain informed consent and the written agreement of the client.

While the TOBA should deal with many of the regulatory compliance needs, it can ensure compliance with legal obligations as well, such as money laundering under the Proceeds of Crime Act 2002 as well as data protection.

Most brokers, particularly those with retail clients, collect personal data from their clients and they must therefore comply with the Data Protection Act. This includes giving an explanation as to how their personal data will be used.

Many businesses fall foul of data protection legislation simply by failing to provide this straightforward information. By including the correct wording in the TOBA this issue can be easily addressed.

Most businesses operating within the service industry in the UK – including those with little or no regulation – use some form of written agreement to govern relationships with clients. They invariably set out the framework as to how transactions will be dealt with between the parties, including the responsibilities of the client and the consequences of any failure or default on the part of the client. This ensures clarity for both sides.

Brokers should therefore think very carefully about the responsibilities that should be included for both themselves and the client. An obvious, but sometimes overlooked, example is the fact that the insurer or underwriter relies on information provided by the client who has an ongoing duty to disclose any material facts or changes to the insurer.

This responsibility on the part of the client should be clearly set out in the TOBA with a caveat explaining that any failure could invalidate the policy in the event of a claim.

As is widely known, a recent legal authority has

Protection – und



highlighted the need for a full explanation of any warranties or exclusions and the consequences of not explaining these.

A well-drafted TOBA clearly sets out the responsibilities of both parties and should result in a significant reduction for potential disputes and with it, the inevitable breakdown of the relationship with the client.

To avoid future problems, brokers may want to look at including: How long are quotations valid? Under what circumstances will verbal instructions be acceptable? When must instructions be confirmed in writing? Who owns the broker's file of papers?

In a recent instance, we included a provision in a broker's TOBA with commercial clients explaining that the broker had the right to retain the full premium where a policy was cancelled by the client.

The knock-on effect for the broker was a dramatic improvement in bad debts as clients could no longer argue the point as it was clearly provided for in the agreement.

While the TOBA is an excellent way of ensuring consistency by using the same set of terms to govern the relationship with clients, it is important for the TOBA to both reflect the way in which the business operates and how it transacts business with clients. Often, retail and commercial clients

need to be dealt with differently. It is also possible that certain commercial clients will be dealt with differently depending on the nature of their business. And, it is quite common for brokers to have several different TOBAs to reflect the different needs of both their retail and commercial clients.

No-one should overlook the fact that both regulatory and legal obligations change from time to time. TOBAs should be reviewed regularly – at the very least on an annual basis – to reflect these changes and any developments with the broker's business or procedures and processes. For example, TOBAs should now be amended to include BIBA's recently-published recommended wording setting out a commercial clients' right to request commission details.

While TOBAs for clients are now commonplace, brokers' relationships with other parties should also be set out in a TOBA.

This includes insurers, appointed representatives, introducer appointed representatives, introducers and sub-brokers.

Plainly, such terms will be quite different to those in a client TOBA



Brokers should think very carefully about the responsibilities that should be included

What should a TOBA include?

While an IDD does provide the client with the required regulatory status disclosure, it falls short of providing all necessary information in one document. A well-drafted TOBA clearly covers:

- regulatory compliance – eg, ICOB rules, CASS
- legal requirements – eg, data protection, money laundering
- your business requirements – eg, debt recovery, validity of quotations
- client responsibilities – eg, duty of disclosure, verbal or written instructions.

IMAGE: GETTY

and we recommend that brokers seek legal advice when drafting these agreements.

It is clear that to ensure FSA compliance, clarity and avoiding disputes, well drafted TOBAs covering both regulatory and legal issues are a must.

Hywel Evans is a solicitor at Hugh James



If members have queries about the terms of any TOBA, they can contact Hywel Evans on 02920 391030 or by e-mail at Hywel.Evans@HughJames.com

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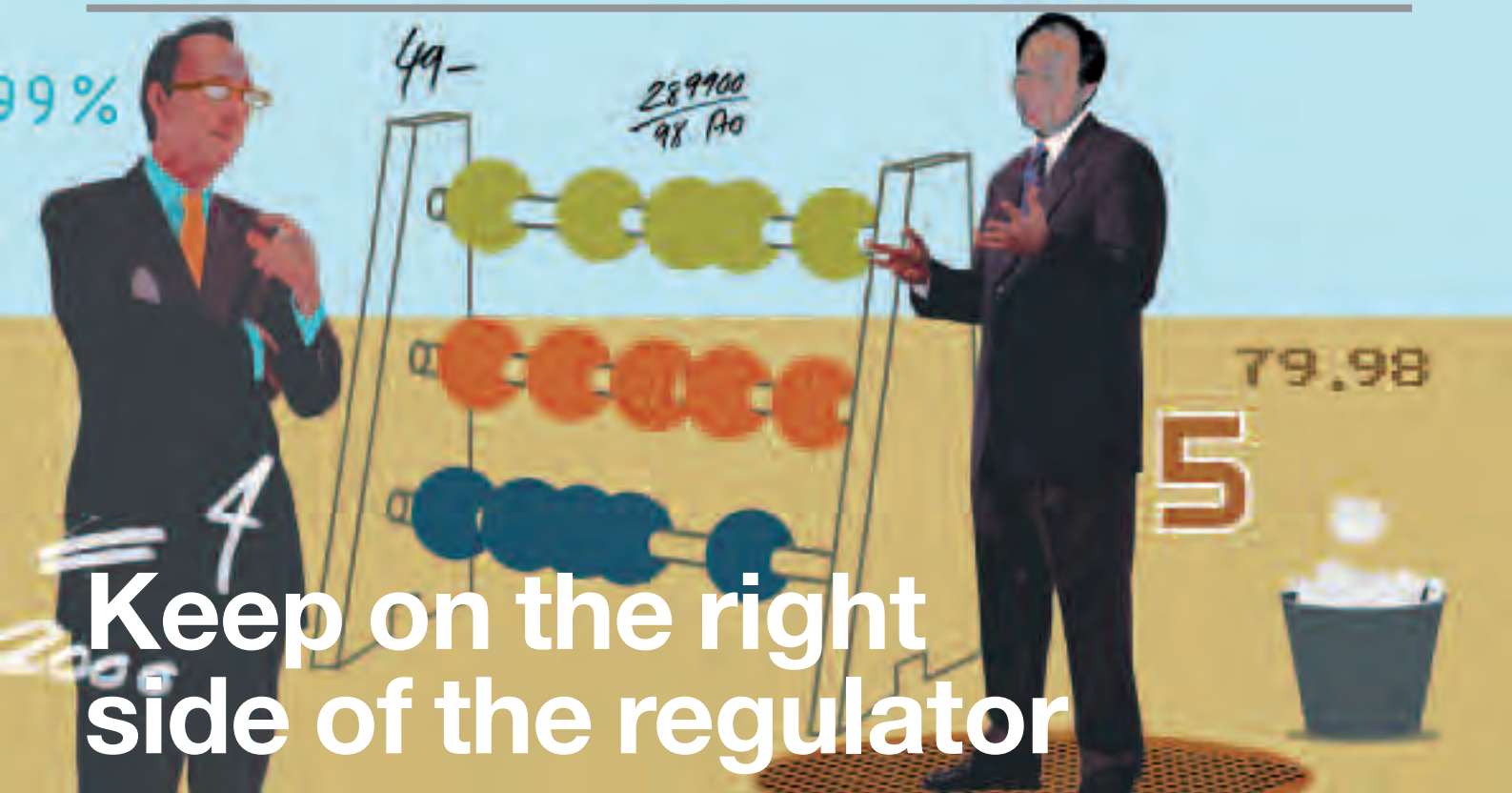
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Keep on the right side of the regulator

The Financial Services Authority (FSA) is checking brokers are meeting client money rules. BIBA's top tips will help you pass with flying colours

This autumn, the FSA will make some 200 visits to brokers to check their compliance with the client money rules and if it finds significant breaches or failure to comply, then this will almost certainly lead to enforcement action.

Of all the relevant sourcebooks contained in the FSA's *Handbook of Rules and Guidance*, the *Client Assets Sourcebook*—and its chapter five in particular which details these rules—has probably attracted more comment than all the others put together.

Many brokers remain unclear about where they stand. The client money rules form a complex suite and the evidence we have seen is that our members in the main have tried hard to comply. However, it is clear that misunderstandings still exist, to the extent that the FSA has issued a 40-page guidance document to help firms make sense of it all.

The FSA considers the handling of client money to be its number one supervisory priority this year and so its importance should not be underestimated.

So, what can be done to ensure that you stay on the right side of the regulator? BIBA has put together the guidelines, see right.

Client money rules: BIBA's top tips

- make sure that your client money accounts are not in deficit and that any excess held in the account is limited to a prudent amount to cover any unreconciled items at the date of the calculation
- the bank accounts must be set up correctly and, where you operate a non-statutory trust account, the trust deed needs to be correctly executed. Additionally, make sure that the title of your client money account includes either the term "client" or "customer"
- make sure that you correctly perform the client money calculation on a regular and timely basis, at least every 25 working days and provide evidence
- you should make sure that shortfalls—should there be any—or any excess funds are paid/removed by the close of business on the day of the check
- you then need to reconcile client account balances with the results of the client money resource check within 10 business days
- check that informed consent is sought from your clients which will allow for their money being held in a non-statutory client money trust account. The same applies to any interest you may wish to keep that is earned on client money bank accounts. Bear in mind if you have a non-statutory account that your systems and controls and management of any credit risk must be overseen by an appointed client money manager
- ensure the status of any client money accounts agrees with the TOBAs as issued by or to insurers, wholesalers, clients and other brokers you deal with
- keep a formal record, such as a spreadsheet, detailing insurer by insurer, wholesaler by wholesaler, the status of monies (risk transfer or not), banking and commission withdrawal arrangements, etc
- client money calculation should reflect balances paid on to third parties for which the broker is still ultimately liable and calculation adjusted for uncleared cheques or debit and credit cards' cancellation periods
- if you have appointed representatives, make sure client money is properly accounted for.

Solutions unlimited

BIBA's technical team is at the ready to answer your queries...

Demonstrate your competence

Q: What does the Financial Services Authority (FSA) actually mean by the term 'competence' and how do I go about demonstrating that my staff fulfil its definition?

A: The FSA's *Training and Competence Sourcebook* sets out the 'commitments' each firm has in relation to training. These are:

- employees should be competent
- they should remain competent for the work they do
- they should be appropriately supervised
- they should have their competence regularly reviewed
- the level of competence is appropriate to the nature of the business.

The commitments themselves are for guidance only and do not prescribe how firms should go about complying. The rules also do not define the term 'competent'.

At BIBA, we believe that the term might best be defined as 'the appropriate combination of knowledge and skills to perform the required role'.

To demonstrate that staff members are competent, we suggest a simple five step process:

- each staff member should have a job description
- from the job description, lift out the key skills and knowledge

required to adequately do the job described

- periodically measure the staff member's performance against the knowledge and skills needed
- where gaps in required knowledge and skills are found, provide suitable training
- keep a formal record as evidence.

Whose licence is it anyway?

Q: We have a one man haulage contractor where the vehicle and driver are on contract hire to another company. The driver does not have premises and cannot keep the vehicle on the highway. Our understanding is that, under these circumstances, the operator's licence would be held by the company for whom the individual is working, and

where the vehicle is normally kept. Do you agree?

A: An operator's licence should be held by whoever uses the vehicle. This may or may not be the owner of the vehicle. In this scenario, it depends on how the individual is being employed. If they are being paid by the company requiring the haulage, and are effectively an employee, then the company would need to have space on their operator's licence to accommodate the vehicle.

If it is a subcontractor arrangement and the work is being contracted to an individual operating as a haulage contractor, then the individual would require the operator's licence.

Know your ratings

Q: I've been looking to deal with an insurer but I've noticed that its financial security

rating differs between AM Best and Standard and Poor's. How do I know which rating to trust?

A. Rating agencies use different scales to measure the financial security of insurers. The best thing to do is to look at the definition of the rating. For example, with AM Best a B+ could mean very good and secure, but with Standard and Poor's it could mean weak. Therefore you cannot judge the insurer by their security rating without checking the full definition of the ratings first.

Email questions to: Regulation questions:

whites@biba.org.uk

Technical questions:

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Visit the BIBA website for further guidance on technical issues – www.biba.org.uk



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