

Spring 2008

Issue 32

the magazine of the British Insurance Brokers' Association

the broker



Is this the future for insurance funding?

The ins and outs of securitisation

Fighting financial crime

Uncovering SOCA's role

Lessons from the life side

What the RDR means for brokers

Influencing Tomorrow

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WELCOME



Have you booked your place yet for the BIBA Conference, Influencing Tomorrow? If not, then check out our preview which starts on page 23 – it's an impressive line up.

There can't be many events which range from the serious – such as an update on insurance contract law reform from law commissioner David Hertzell – to the inspirational – an address from Bob Geldof, and we've even thrown in a funfair!

We are all really looking forward to visiting Glasgow – it promises to be an outstanding event and we would urge members to do all they can to attend.

Meanwhile, it is just under a year ago that student Adam Ridgewell joined us for a work experience placement. He'd been selected by Royal & SunAlliance as part of a special graduate scheme it runs which encourages university students to find out about careers in insurance.

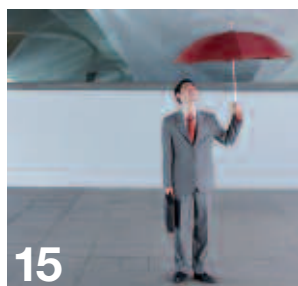
RSA arranges for work experience within its own broker division, for a week spent with us and also with one of our member brokers.

We think offering three placements is a fantastic way to gain insight into how the world of insurance works and crucially, the unique way in which brokers and insurers work together – this frankly cannot be taught in any lecture hall. You can read about RSA's approach on page 8. Finally, thanks to those who responded to our readership survey and provided views on *the broker*. We really do take on board your suggestions which, for example, included requests for more technical material. And, please, as ever, email me to let me know any topics you would like us to cover.



Leighann Burtrand
Editor of *the broker*

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This year's annual conference and exhibition is fast approaching. **Eric Galbraith**, BIBA's chief executive, explains why the theme, Influencing Tomorrow, has particular relevance



Time to get on the front foot

We at BIBA House are busy preparing for our 2008 conference and exhibition in Glasgow.

This year's theme is particularly appropriate. When we were discussing what it should encompass, we wanted to get away from simply focusing on brokers' business abilities and ways of improving what we offer.

We wanted to emphasise the important position that BIBA and our members maintain within the insurance industry and how we can use that collective advantage to shape the future – our futures.

If we speak out, we can influence not only the way insurance is provided, but also the way regulation is evolving and applied.

BIBA will be at the forefront when it comes to influencing decision makers. Of course, we want to promote the value of using a broker, but beyond this, we are determined to campaign hard for issues that matter.

Launching our Manifesto

This is why we have launched our *Manifesto*. Its key messages include ensuring the Government tackles major issues such as flood defences, uninsured driving and making sure individuals and businesses have access to the right protection at the right prices by using a broker.

Working together

To make sure our voice is heard, BIBA has during the last 12 months met a record number of Ministers, MPs and Government advisers to both the UK and Europe.

We have been active in lobbying and producing responses to the FSA, Government and the EU and have commissioned independent research to create a focus on specific issues.

BIBA's concerns are being heard, but sometimes we need the whole market to respond if a particular message is to really hit home.

I refer in particular to the ongoing work by the FSA following their failed cost benefit case to mandate commission disclosure in the commercial market. As you know, rather than leaving it there, the FSA is now planning to investigate the area by undertaking three further work streams, which involve:

- the publication of a discussion paper due by the end of the first quarter of 2008
- visiting a number of firms to establish whether conflicts are being managed
- speaking to buyers of commercial insurance.

While I believe the market has moved forward on transparency and managing conflicts, this view is not held by the FSA.

If the FSA finds that the market has not improved then we will be back to square one. I hope this ongoing discussion and investigation by the FSA will result in a 'market-led solution' which is something BIBA has been working on for nearly two years.

My plea to all members is to engage with, and respond to, the discussion paper. We need a definitive answer on this issue. BIBA will, of course, be doing this but I would encourage all members to write to Hector Sants, the FSA's chief executive, with your views. Let us finally get closure on this review.

Aggregator action

BIBA's research into insurance comparison sites received high-profile coverage in January. We decided to take action on aggregators for a number of reasons. At the most basic level, I was feeling increasingly frustrated at seeing TV adverts saying aggregators offered the best and cheapest deal by 'comparing' the market – and many members were equally irked.

Many consumers are using these sites without fully understanding them. They are giving 'lite' details and ending up with 'skinny' cover.

When you have high excesses set as a default, stripped-out benefits such as no windscreen or legal expenses cover and, in some cases, a much lower price appearing on screen to what is eventually quoted, this is not treating customers fairly.

There are a small number of aggregator sites which have greater detail in comparing cover but many do not.

This technology provides an opportunity for our sector but we need to ensure consumers are protected. We shared our research with the FSA which has promised to investigate further some of the points raised. We look forward to seeing how that work unfolds.

Before I sign off, I would urge you all to read the article on the FSA's Retail Distribution Review and its implications for insurance brokers which appears in this issue on page 15.

The review is important and one members should not ignore just because it appears to be focused on the investment market. As its author points out: "the best defence is offence".

I look forward to welcoming you to my home city of Glasgow in April for the BIBA conference which is shaping up to be our best ever.

Email Eric Galbraith at galbraithe@biba.org.uk

Life on the front line

There seems little doubt that, in the future, there will be more major claim events in the UK and worldwide. While our thoughts are currently flood-focused, we must not forget the effects of other natural events such as storms, earthquakes and the threat of terrorism.

For loss adjusters, to deliver a good and effective service is only possible as a result of forward planning by management and the goodwill of every member of a dedicated team. No sector of our market can afford the luxury of

surplus staff and while the early challenges are visible, these continue well after the flood waters have gone. Many adjusters experience high levels of stress in their business life, which has wider social and industry implications.

Reputations are at stake for all those involved – insurers, brokers, loss adjusters and a host of other service providers. All responded well to the floods,

but we could still work better together in terms of lines of communication and forward planning.

And if that means more resourcing, which in turn delivers improved results for policyholders, then there will be a price to pay for that.

The strength and value of pre-incident relationships between adjusters, brokers and insurers cannot be emphasised enough. Co-operation in loss prevention, the production and availability of self-help guides and a combined effort to manage customer expectations will deliver quick wins.

Adjusters found that business continuity planning (BCP) for some businesses was not totally effective, or even non-existent in certain cases. The Sheffield Chamber of Commerce reported many of its members had no business interruption (BI) cover at all. The market is failing those companies and damaging our economy as a consequence. We need to educate the business community of the value of BCP and ensure it is regularly reviewed and tested. BI cover must be offered by those who fully understand the business in question and provide effective insurance solutions. Claims has had a Cinderella image. However, there now seems to be emerging recognition of the value it delivers.

We must build on this by promoting the value of professional qualifications and appropriate financial rewards. We must transform words into actions and The Chartered Institute of Loss Adjusters is willing to play its part to the full.



Malcolm Edwards

Malcolm Edwards is president of the Chartered Institute of Loss Adjusters



Aggregator research stirs up media frenzy

BIBA hit the headlines following the release of its research into price comparison – or aggregator – websites.

Head of training and compliance Steve White and technical and corporate affairs executive Graeme Trudgill pitched in to handle a huge number of calls and requests for comment from the press.

The independent research was conducted on behalf of BIBA by consultancy FWD and showed consumers could be buying the wrong cover from price comparison sites.

The day after the research came out, the FSA said it would conduct further analysis into these sites, based on BIBA's recommendations.

Mr Trudgill comments: "Some comparators are making too many assumptions and there is the potential for consumer detriment, one third of those interviewed did not realise that assumptions are being made, people can end up being steered to an unsuitable policy and an incorrect price. Our big concern is that rules affecting aggregators are both outdated and inappropriate. We will continue this campaign for a level playing field so consumers are appropriately protected."

BIBA's research found the majority of consumers did not understand the difference between the various policies being offered and found their details confusing. Around 93 per cent of those questioned people also expected

the sites to be regulated in the same way as independent brokers.

Mr Trudgill adds: "We were pleased not only that we had received so much coverage on this issue, but also that a number of aggregators spoke out and said they were prepared to accept regulation. After all, they do not want to be hit by a raft of complaints from those who have purchased the wrong product – and we have seen complaints to the FOS increase regarding motor insurance sales."

BIBA has recently met with the regulator and has supplied more information on the research. Mr Trudgill says: "We were encouraged the FSA reacted so quickly. We fully support members who wish to supply products to comparison sites. But we do need a minimum standard and consistency for consumers."

National press coverage included *The Daily Telegraph*, *The Independent*, *The Times*, *The Guardian*, *The Daily Mail*, *The Observer* and *The Sunday Express*. It was also reported on Channel 4 News, BBC News and BBC Radio 5 Live on Wake Up to Money and Graeme Trudgill participated in an interesting discussion with Money Supermarket on Radio Four.

Regional press, such as *The Yorkshire Post*, *The Scotsman* and *The Liverpool Daily Post*, also ran the story. And, among the trade press, the research was covered by *Post Magazine*, *Insurance Times* and *Mortgage Solutions*.

BIBA's *Manifesto* – spread the word

BIBA's chief executive Eric Galbraith is urging members to familiarise themselves with the key campaigning issues for the year ahead as detailed in our newly-launched *Manifesto*.

"Brokers are often among the most trusted business advisers in their communities. We want them to show they are members of an active trade body and are fully up-to-date with the most important topics affecting our industry."

He adds that members may have dealings with their local authorities, MPs or business organisations, such as the Chamber of Commerce and the *Manifesto* may prove useful in outlining the wider commitment we all have to providing a fair deal for consumers and best advice.

The *Manifesto* covers a range of issues, including:

- a call for the Government to set up a single body to take responsibility for improving flood defences
- a reassessment of age criteria, so that the over-60s can more easily obtain insurance
- ongoing education to remind consumers of the need for motor insurance
- encouraging greater access to professional advice
- promoting the appropriate level of regulation.

Mr Galbraith adds: "As the strap line of the *Manifesto* declares: 'The best insurance is a BIBA broker'. Our *Manifesto* is not set in stone and we will highlight and campaign on new issues as they arise, but it is a useful starting point for brokers wanting to become more involved in public affairs, as well as raising awareness among relevant stakeholders."

You can download the *Manifesto* in full on the website, under the technical advice, information to members section.

Just help yourself to more business

The new website for BIBA will be launched shortly before the start of this year's BIBA conference.

But members are being requested to supply or, if necessary, update their details on the self-service portal of the existing site.

Membership co-ordinator Kirsty Gordon explains: "The new website is going to look fantastic and while it will contain a huge amount of technical information for members, we will also be targeting consumers in a big way. We will be promoting our search facility so that anyone looking for a local broker or a particular product will be able to find this information quickly and easily."

She adds the consumer area of the site will now encompass more classes of business, allowing us to help those looking for all types of cover, however specialist. "My message to members is please supply your details now. It's a free way of winning new business, so don't miss out."

Full details on how to provide your details are on the site and members should visit: www.biba.org.uk

Or, should you have queries, contact Kirsty Gordon on 0207 397 0224 or email gordonk@biba.org.uk



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Belfast welcomes one-day regional conference

Northern Ireland recently hosted its first regional conference, which took place at the Belfast Waterfront Conference Centre.

The event proved a huge success, with much of the organisation handled by regional executive Clive Hurn.

He says: "We've had excellent feedback, so we'll be doing this event again. More than 80 brokers attended and we had 21 scheme providers in the exhibition."

The event kicked off with a welcome from regional chairman Andrew Galway, followed by a presentation from BIBA chairman, Derek Thornton.

Next came Steve Kelly, Norwich Union's head of trading for Scotland and Northern Ireland, who gave a keynote speech on an insurer's view of partnership for growth prospects in Northern Ireland.

There was then a regulatory update from Andrew Honey, head of the FSA's small firms division – this session was chaired by BIBA's head of compliance and training, Steve White.

David Meur, managing director of broker Genavco, spoke on insurance fraud, with the final presentation on business continuity coming from Tony Gimple, managing director of Crisis Survivor.

"Northern Ireland is a strong market with a vibrant broking community," comments Clive.

Steve Foulsham, BIBA's technical services manager, who attended with head of technical services, Peter Staddon, adds: "This was my first visit to Belfast and I was very impressed. It was a superb venue and we were delighted to see so many members here – there are some extremely professional firms and it is clear insurers and our scheme providers feel this is an extremely attractive market."

A busy exhibition area provided an ideal location for networking and the event gained backing from big name insurers Allianz, Royal & SunAlliance, Zurich and Norwich Union through sponsorship.

Delegates who attended the conference were also eligible for 13 CPD points.

West of England supports Alzheimer's Society

The West of England region recently raised £1,500 for the local North Somerset branch of the Alzheimer's Society.

Regional executive Barry Blakley comments: "Most of the funds were raised at our annual dinner, held last October at the Holiday Inn at Hambrook, Bristol, with some top-up contributions from Oval and BIBA."

The charity is a personal

favourite of former chairman Ian Dickinson of Brunsdon Group and handing over the cheque was one of his last official duties before the new chairman, Sharon Watts of Hayes Parsons, took over.

"We were delighted to help and found out a lot about this excellent charity and the work they do when we met Hazel and Karen recently," adds Barry who also took the photograph, below.



A good turn: BIBA's West of England chairman Ian Dickinson is flanked by the Alzheimer's Society branch manager Hazel Moore (left) and administrator Karen Castell (right)

Charity is in the air

Anglia region selected the East Anglian Air Ambulance as its favoured charity and succeeded in raising almost £2,000 for them recently.


Regional executive Jo Morgan says a wonderful annual dinner was enjoyed by members. "We had around 250 local brokers and their guests enjoy fine fare at King's College in Cambridge and the weather stayed fine enough for some punting to go ahead."

She explains in a break from tradition, someone different replaced the usual guest speaker. "Former military intelligence officer Drew McAdam amazed everyone with his talents which include reading body language, subliminal suggestion and mind-reading. He spooked quite a few of



us with his uncanny mind play," says Jo.

And she adds that the East Anglian Air Ambulance was a worthy recipient of the funds – although further donations would be welcome. "It needs £10,000 a month to keep in the air. The dinner raised £1,985.50, which amounts to around 12.5 hours."

 For details of BIBA's **regional executive contacts**, please see the BIBA website, www.biba.org.uk/broker/committeesfinal.html

We want to work in insurance!

Martin Alderman provides an insight into the ways Royal & SunAlliance attracts and develops young talent

There has been a subtle shift in the career focus of today's young and aspiring business people. Increasingly, we are finding far more have deliberately set their sights on a career in insurance, possibly backed by a bespoke insurance-related qualification.

Our response as an industry must therefore be to match this demand.

At Royal & SunAlliance we take talent management seriously. We have recognised that one of the keys to competing successfully in our marketplace is to align a strong customer ethos to a focus on technical and professional mastery.

Within Royal & SunAlliance's Broker division, we meet this challenge through the dual strategies of developing an industry-segmented approach, providing brokers with access to industry experts with new and existing trading units; while simultaneously bringing intense focus on developing the technical capabilities of our people.

So how does this approach manifest itself to people looking to develop their careers? We have developed both an external and an internal approach to recruiting, training and retaining some of the best technical talent the industry has to offer.

Externally, we have launched our first Global Graduate Recruitment campaign. In 2007, we recruited more than 50 graduates from across the globe. Their career with Royal & SunAlliance started with an intensive four-week induction, involving a series of presentations from our senior technical leaders accompanied by various excursions to visit trading underwriters, customer call centres, claims units and site visits to some of our commercial insureds with our risk consulting engineers.

Each graduate remains on the programme for two years and is aligned to one of our core technical competencies such as underwriting, reinsurance, claims or actuarial. The first 18 months are spent developing technical knowledge of their preferred technical discipline. In the meantime we coach, mentor and support the graduates through their professional qualifications.



It is important for the future of the industry that we attract the best talent available

Assignment

After 18 months, graduates can apply for a short-term international assignment, which is planned to help transfer knowledge and skills throughout the company worldwide. Once completed, the graduate may revert to their preferred technical discipline where we will seek to develop their skills rapidly and therefore assume greater responsibility within their business area.

For people well on the road to completing their technical grounding, and perhaps more established than graduate level capability, 2007 saw us run our second Fast Track programme. This is a two-year development programme integrated with a full-time job where our Fast Trackers are challenged, inspired and encouraged to fulfil their full potential.

Cesare Galimberti, who is currently on the programme, says: "Fast Track enables you to network and share issues, approaches and solutions. It's a great opportunity to further develop as a professional in a highly demanding and fast-paced environment."


However, you cannot just rely on recruiting talent. We have an established internal focus on developing our technical capability too. In 2006, we established the Global Technical Academy, whose purpose is to design and deliver training solutions that will ensure technical capability continues to be market-leading and a source of competitive advantage.

In the UK, we have the Claims Mastery and Underwriting Excellence programmes, the latter of which recently won the *Insurance Times* Training Initiative award for 2007.

Underwriting Excellence has recently been formally accredited by the CII for delivering the highest standards of technical excellence. And the newly established UK Talent and Capability team means we will be developing a significant focus on succession management and active talent management in 2008 and beyond.

It is important for the future of the industry that we attract the best talent available. To support this commitment Royal & SunAlliance is sponsoring the Graduate Initiative at this year's BIBA Conference.

We will invite undergraduates to attend the event and learn about the career opportunities available in the insurance industry. One student will be offered a work placement spending time at Royal & SunAlliance, at BIBA House and with a BIBA member broker. We look forward to seeing you there.

 **Martin Alderman is UK technical academy director at Royal & SunAlliance**



Open for business.

We are proud to announce that St. Paul Travelers has adopted the trading name and red umbrella logo of our parent company Travelers – one of the world's leading financial institutions. A shorter name but most definitely bigger ambitions, as we seek growth through more general commercial risks and larger business volumes. But it's not all change. The founding qualities on which we have established our UK business – those of professionalism, customer focus and a strictly ethical approach – remain as true as ever. Travelers is open for business. If you are too, we'd like to hear from you.

Meet the British 'FBI'



SOCA's **Steve Hardwick** explains the work of his agency and the role brokers can play in combating financial crime

It may have been prompted by a gut instinct or the smallest of administrative irregularities, but there can be few brokers who can say they have never had a sneaking suspicion that all is not quite as it should be with a particular client.

Whether it was a customer making large cash payments of premiums, or the intermediary being asked to find motor cover for Mr Smith's new Bentley when they know he has an income more suited to running a Vauxhall Corsa, alarm bells should have been triggered that their business was being exposed

to possible money-laundering activity.

Money laundering is the term used to describe the techniques, procedures and processes used to convert the proceeds of criminality into other assets to conceal their true origin, making it appear they originate from a legitimate source.

The current legislation that criminalises money laundering in the UK is the Proceeds of Crime Act 2002 (POCA) (sections 327-340). The 2007 Money Laundering Regulations also define and impose requirements on those conducting 'relevant business' to have systems in place to obtain evidence of the identity of their clients, keep records, train staff, and make internal reports.

Insurers, brokers and intermediaries working exclusively in the general insurance market are not covered by the Money Laundering Regulations.

They could, however, commit money laundering offences contrary to POCA where they know or suspect that one of their clients is



IMAGE: RICHARD BEACHAM



The SAR regime is a central plank of the UK's anti-money laundering strategy

engaged in money laundering. Making a timely report to the relevant authority where you know or suspect another person is engaged in money laundering and receiving consent to proceed with the suspicious transaction could give you a full defence to a potential money laundering charge.

The relevant provisions of POCA set out the three principal money laundering offences, which are all concerned with the actual use of, or dealing with criminal property:

- Section 327: concealing, disguising, converting, transferring or removing from the jurisdiction criminal property.
- Section 328: entering into or becoming concerned in an arrangement that you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another.
- Section 329: the acquisition, use or possession of criminal property unless for an adequate consideration.

Criminal property is widely defined as any

property that constitutes a person's benefit from criminal conduct, or represents such a benefit and a person knows or suspects it constitutes or represents such a benefit. Criminal conduct includes tax evasion and benefit fraud.

The UK's anti-money laundering strategy

The Serious Organised Crime Agency (SOCA) is at the forefront of the UK's fight against serious organised crime including money laundering. It is an intelligence-led harm reduction agency with law enforcement powers.

The agency was established by the Serious Organised Crime and Police Act 2005 (SOCPA) and amalgamated the National Crime Squad, the National Criminal Intelligence Service and parts of HM Customs and Excise and the Immigration Service. It became operational on 1 April 2006 when it assumed its statutory functions as set out in SOCPA which are to prevent and detect serious organised crime and to contribute to its reduction in other ways.

The Financial Action Task Force (FATF) sets international standards for anti-money laundering and counter-terrorist financing controls through a number of recommendations that require countries to establish laws to combat, control and investigate money laundering, terrorist financing and asset recovery.

Countries are required to establish a Financial Intelligence Unit (FIU) to receive, analyse and disseminate suspicious activity reports (SARs) relating to money laundering and terrorist financing and provide a link between the reporting sector and investigating agencies. The UK Financial Intelligence Unit (UK FIU) sits within SOCA and strives to protect the UK from money laundering and terrorist financing, but also provides opportunities for the authorities to recover criminal and terrorist property and thereby to reduce the harm to the UK caused by criminality and terrorism.

Suspicious activity reporting (SAR) regime

The SAR regime is a central plank of the UK's anti-money laundering strategy; it provides individuals and businesses with a defence to the principal money laundering offences if they report instances of money laundering and suspicious activity to the authorities.

POCA establishes two distinct regimes for suspicious activity reporting (ss.330-338). In the first, section 330 of POCA requires institutions in the regulated sectors (those subject to the Money Laundering Regulations) to disclose information (in the form of a SAR) where they know or suspect or have reasonable grounds to know or suspect money laundering. Those involved in the life, pensions and investment



The techniques used by money launderers are constantly evolving and becoming ever more sophisticated

side of the insurance industry are part of the regulated sector.

The second regime allows persons and businesses generally – and not just those in the regulated sectors – to avail themselves of a defence against money-laundering charges by making an authorised disclosure to SOCA.

The Act states that a disclosure should be made before an act of money laundering takes place and that the consent of the authorities to undertake an activity including completing a transaction (a 'prohibited act'), about which they have concerns should be sought.

A disclosure can be made after the prohibited act provided there was good reason for the failure to disclose before the act took place and the disclosure was made on the reporter's own initiative as soon as practicable.

Suspicious activity reports are made to SOCA through the UK FIU. The preferred method of reporting is via SAR Online, SOCA's web-based reporting mechanism which provides a free secure method of reporting suspicious activity. Reports submitted in this way are acknowledged by an automated email of receipt providing a reporter with the reassurance that their information has been received. SOCA does not acknowledge receipt

of posted or faxed reports.

Registration for SAR Online is a simple process and can be accessed from the website www.soca.gov.uk. There is online help with registration and a telephone helpline during office hours.

The insurance industry was responsible for 1,540 of the 220,484 SARs submitted overall, according to SOCA's *Annual Report* for 2006/2007. The majority of these SARs come from the life, pensions and investments side of the insurance industry, but general insurers do submit reports too.

For example, one large general insurer has taken to submitting a SAR in cases where an individual has paid for their motor insurance using a cloned or compromised credit/debit card. One enterprising police force is exploiting the information provided by these SARs in their efforts to remove uninsured drivers from the road.

What should brokers do to protect themselves?

Financial institutions view payments originating from insurance companies as commonplace, the money is assumed to be clean and does not attract attention. If money launderers can place criminal funds into an insurance policy then they will have made significant steps in layering and integrating funds into the international financial system.

Historically, there has been the perception that general insurance products offer criminals little opportunity to launder money. Unfortunately, this view has led to insurance being seen as a soft target for criminals and complacency among some firms in developing robust policies to deter and detect money laundering in their businesses.

The perception that there is little money laundering in the general insurance sector is now fading. The size, structure and global nature of the insurance industry combined with the easy availability and diversity of its products means that it is now clearly vulnerable to money laundering. Criminals will look for opportunities in insurance products to launder their proceeds often using the knowledge of insiders within the industry to assist them.

As the Money Laundering Regulations become more effective and those within the

regulated sector become more adept at protecting their organisations against such activities, criminals are increasingly looking to use those in the business community who are outside the money-laundering regulations and those with a lack of knowledge and understanding of money laundering.

Brokers are often perceived as a weak link in the insurance industry anti-money laundering efforts; they often lack knowledge or fail to take money laundering seriously; they could also be unduly influenced by the pressures of competition or approaches from criminals.


Brokers can adopt measures to identify and prevent money laundering by:

- establishing and implementing policies and controls to guard against products being used by clients to launder funds
- ensuring the source of clients' funds is identifiable
- ensuring staff understanding and awareness of money laundering and the risks of committing a criminal offence. Broker ASSESS has an excellent module to help staff improve their knowledge of what constitutes money laundering and how intermediaries may be targeted
- training staff to recognise suspicious activity
- having procedures in place to record suspicious activity and report it to SOCA.

This can be done by assessing the risks posed by the products they offer and the areas in which business is conducted.

The techniques used by money launderers are constantly evolving and are becoming ever more sophisticated. BIBA members can find further information on the ways in which particular services and products may be used by money launderers along with case studies and typologies at the following sources.

- Joint Money Laundering Steering Group www.jmlsg.org.uk contains approved anti-money laundering guidance for the financial services industry in the UK.
- Serious Organised Crime Agency www.soca.gov.uk contains guidance on reporting suspicious activity and other useful information.
- Financial Action Task Force www.fatf-gafi.org
- HM Treasury at www.hm-treasury.gov.uk
- Financial Services Authority at www.fsa.gov.uk
- Home Office at www.homeoffice.gov.uk
- International Association of Insurance Supervisors www.iaisweb.org provides anti-money laundering guidance for insurance entities and provides the main principles, procedures and case studies relevant to the industry.

 **Steve Hardwick is principal officer for the Serious Organised Crime Agency (SOCA)**

Guidance on filing a SAR

- Be explicit – tell SOCA if you want consent
- Provide a concise/linear narrative in your report
- Specify criminal property (and value where known)
- Specify prohibited act(s)
- Provide a reason for your suspicion
- Submit via SAR Online/ Moneyweb/Fax – avoid using the post
- SOCA has seven days in which to consider a SAR and decide whether to grant you consent. During this period, you should make yourself available just in case SOCA needs to discuss a SAR with you. If you are unavailable, make sure that there is someone within your firm who can discuss the case intelligently with SOCA in your absence.

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Preparation is everything

What are the implications of the RDR for general insurance brokers?
The Association of Independent Financial Advisers' **Chris Cummings**, an industry insider, provides some answers

On first hearing a new opera by Wagner, Mark Twain is reported to have said: "It's not as bad as it first sounds."

I know the feeling. At a summit meeting held at Gleneagles in Scotland for leaders of the life and pensions industry, Sir Callum McCarthy, the out-going chairman of the Financial Services Authority (FSA), delivered a speech that was highly critical of the way the industry currently works. Bad for insurers, bad for consumers, and bad for advisory business

was his message to the audience.

In fact, he wondered, is the current model bust? This speech fired the starting gun on the FSA project that was to become the Retail Distribution Review (RDR).

Clive Briault, managing director of the FSA's retail division, took up the challenge laid down by Sir Callum and set up the RDR. The scope and focus of the RDR were developed between Sir Callum's speech and the announcement made by Clive some months later.

The review, we were told, would focus purely on the investment market and consider the key issues that have led to an underperforming sector. These were identified under five headings:

- sustainability of firms
- reputation of the sector
- professionalism
- consumer access
- regulatory enablers and barriers.

The FSA invited leading figures from across



the investment community to join five working parties, each of which would examine a particular issue and present its report to FSA.

AIFA was represented on each of the working groups so we could feed in our members' views and there were practising independent financial advisers (IFAs) on each of the groups too.

The whole process was open to as much "vested-interest" arguing as you would imagine would be the case. Those supporting the

to the regulator and the regulator spoke back.

The FSA's consumer panel was invited into the working parties but no serious consumer research was undertaken to inform the views of the groups. Finally, the big day came and the FSA held a conference to unveil the RDR. I had the opportunity to say exactly what I thought of the proposals, as I was one of the platform speakers at the conference.

My over-riding impression was of a shambolic document containing lots of bright ideas but no cohesive strategy that would deliver a better outcome for consumers.

The RDR, of course, is not just one set of proposals but was published as a three-part set. Worth reading in its entirety, this set of

top-tip has got to be to be engaged with the RDR process. In my view, at times like this, the best defence is offence.

It is for firms to decide what, if any, of the proposals set out in the RDR they agree with – and which they feel are inappropriate and to make that case to the FSA.

The regulator has stated that it will publish an "emerging themes" paper at the end of this quarter and then policy proposals at the end of the year – so there is still time to make your voice heard.

However, with some much pressure for reforming coming from Treasury, FSA and other groups, unless you want to be swept along in a torrent, the earlier you engage, the better.

Not all the pressures that firms need to take account of will be regulatory. While the FSA has its timetables, firms will have their own. One of the issues identified earlier was the "commercial pull" that firms operating in different markets may have on each other.

Commission abolition

For instance, the matter of composite business models has already been stated – but what if commission as we know it is abolished for investment products? Will the general insurance community be able to withstand the consumerist pressure to have it removed for this market too? The FSA's Consumer Panel has already called for the complete abolition of commission across all retail financial services products... and that means yours too.

If the FSA mandates higher levels of entry qualifications for the investment market, what will the upward drag be on your firm?

Will new qualifications need to be sat by staff?

Will we see qualifications become compulsory for general insurance staff? The Treasury Select Committee recently stated that a key contributor to the Northern Rock affair was the lack of professional qualifications held by the chairman and chief executive of the bank. Will it become a requirement that those running firms must hold suitable qualifications?

There are many other commercial issues that will roll out of the RDR in the coming months. Good firms will keep a weather eye on its progress, those seeking competitive advantage will be trying to use the RDR for their own purposes.

There are three types of people in life: those who let it happen, those who make it happen and those who wonder what happened.

Too often, in regulation, smaller firms can become the third group. Get involved and make a difference to your industry.



Chris Cummings is director general of AIFA



...unless you want to be swept along in a torrent, the earlier you engage, the better

banking community wanted more favourable treatment for banks, those who had insurance interests wanted to see a better deal for insurance companies, and so on.

There were those who wanted to see the whole process rolled-out across the mortgage market and general insurance community even from those early days and initial discussions.

They argued that we do not operate in hermetically-sealed markets and many firms are conglomerates with life and general insurance holdings – these would apply anything that came out of the RDR across both parts of the business so it was better to be open and do it now.

Others rebuffed this approach saying that the investment market was "different".

Interestingly, no-one asked consumers what they thought, nor what they wanted from this review in these early days. The industry spoke

documents asked over 100 questions and, in some key areas, demanded a response that really meant the question was wrong.

Between June and 31 December, the FSA ran a discussion period to collect the views of all involved in the market.

This was highly successful, generating over 800 responses. AIFA's contribution was significant; we interviewed 2,500 UK consumers, researched the views of 500 IFA clients, and surveyed 700 IFAs from our own membership to inform our policy response.

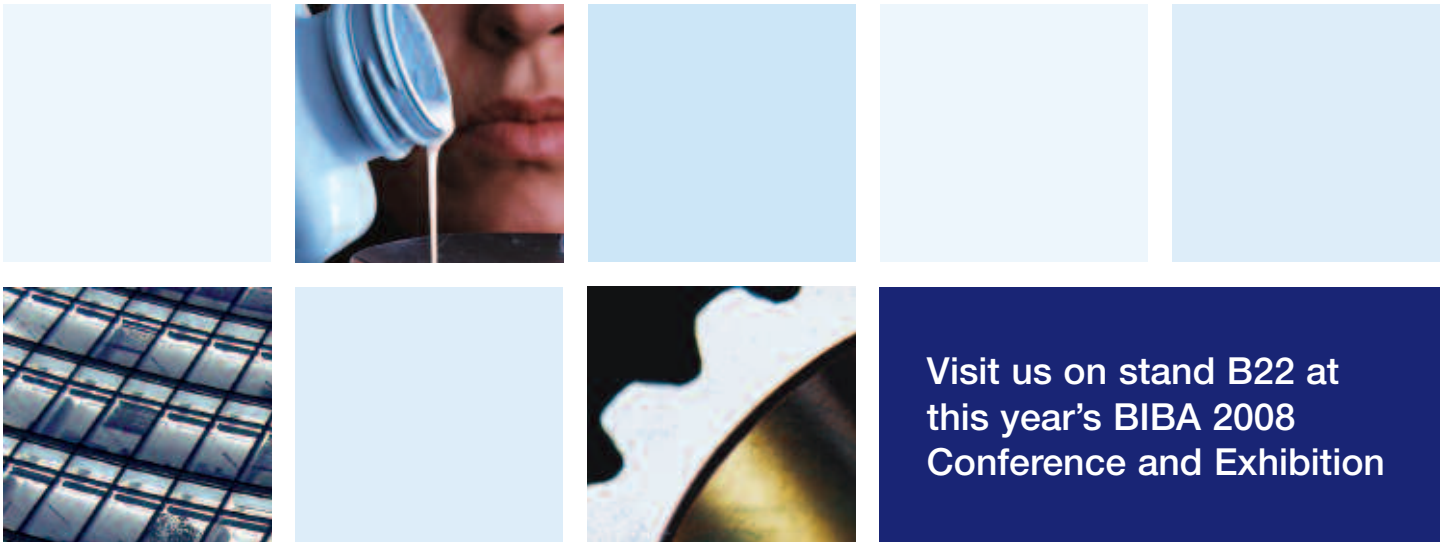
This put a clear, robust, and workable solution to some of the problems the FSA identified, but it does make it clear that we needed a Retail Markets (not just Distribution) Review as many of the issues the FSA discussed had their symptoms in distribution but their causes in manufacturing.

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A shift in thinking

The rise of the insurance-linked securitisation sector since 1999 is important, not least for brokers, says **Keith Boyfield**

The world's insurance and reinsurance markets are on the cusp of a fundamental transformation.

And the emergence of securitisation as a technique to tap the world's capital markets may well offer a number of innovative ways in which brokers can arrange cover for risks associated with natural catastrophes. In particular: flooding, motor vehicle risks, and, in the longer term, longevity risks.

The traditional and familiar insurance model, whereby insurers and reinsurers receive money via brokers in the form of premiums or fees, and then retain the insured risk, is rapidly eroding.

In the traditional model, capital is provided by the capital markets in the form of debt or equity, but the (re)insurer makes no use of securitisation as a means of transferring risk.

However, things are changing, and changing fast.

Already, the catastrophe reinsurance market has developed apace, notably in Bermuda. It has demonstrated that weather related risks can be securitised successfully.

Such techniques are becoming well established and there is a standard template for issuing catastrophe bonds.

The bar chart (at the top page 19) illustrates the rapid development of the insurance-linked securitisation (ILS) market since 1999 and this shows the risks covered include aggregated motor vehicle cover, along with longevity risks and natural catastrophes.

Catastrophe risks

A substantial proportion of ILS issuance has been based on natural catastrophe risks.

Until 2003, catastrophe risks were the only risks that were securitised – apart from 1999, when embedded value securities accounted for a substantial proportion of securities issued.

From an investor's viewpoint, ILS are attractive because they offer exposure to specific insurance risks, such as P&C damage attributable to a single hurricane. For the 12 month period from January to December 2007, broker Willis estimates that \$6.4 billion of catastrophe bonds were issued in the public markets in 2007, noticeably ahead of 2006's figure of approximately \$4 billion.

This chart also illustrates the way in which securitisation began to be adopted for a range of other insurance related risks from 2003. These risks range from Triple X to mortality risks. In 2006, ILS issues spanned a wide variety of risks although natural catastrophe risks and Triple X issues still dominated the market.

Based on this data, it can be said that the current insurance model embraces the concept of transferring peak risks to the international capital markets, which have far greater capacity than the world's insurance markets.

However, the next phase of the story will be a business model that makes far more efficient use of insurers' balance sheets. Regulatory reforms such as Solvency II, an integral part of the EU's Financial Services Action Plan, will encourage this trend.

We are witnessing a new paradigm on a global scale for the regulation of global insurance and reinsurance markets. Those regulatory authorities that drag their feet when it comes to reforming their rules will be increasingly vulnerable to competition, since capital is now at liberty to relocate to the most conducive jurisdictions.

Furthermore, the pace at which these regulatory reforms are introduced will exert a strong influence on the way in which insurance and reinsurance companies employ their capital and the ways in which they can use securitisation as a means of making more effective use of their capital base.

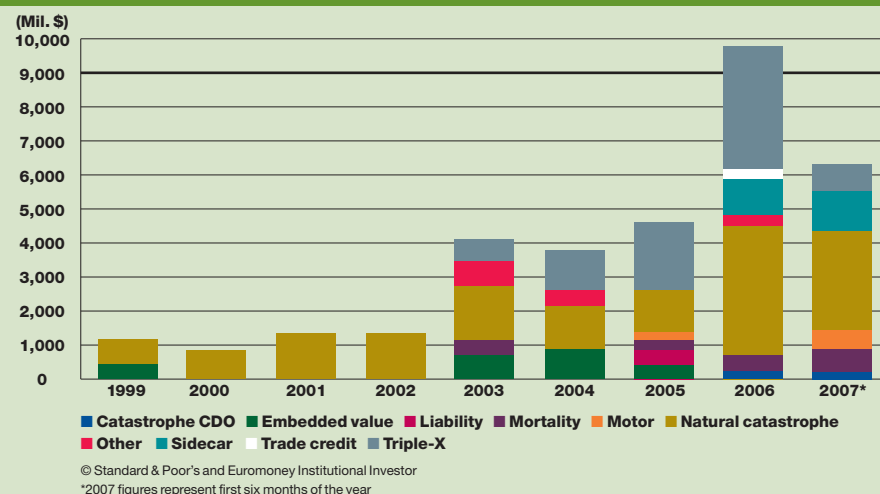
Packaged portfolios

In future, we are likely to see insurers increasingly package a portfolio of risks, which can then be securitised and traded on the world's capital markets. Rather than underwriting the risks themselves through the traditional insurance and reinsurance markets, capital will be provided through the securitisation market.

Already securitisation has proved a crucial tool for the provision of finance to insurers. Following this route, insurers can improve their return on equity, provided bonds are issued at a favourable interest rate, ie, below the return on the securitised book of business.

Securitisation also enables insurers to fund future acquisitions, and provides the necessary

Insurance-linked securities come of age: new issuance rated by Standard & Poor's



... investor interest
in insurance-linked
securitisation paper
is widening

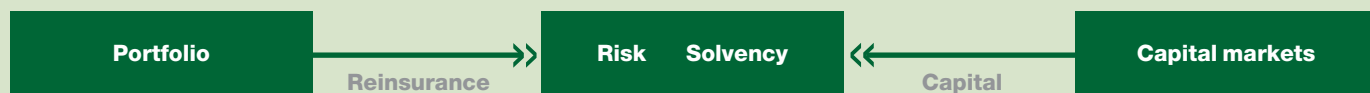
finance to write more property and casualty insurance business; it can also be employed to fund share buyback programmes.

Securitisation also enables insurers to monetise intangible assets, such as the present value of future profits (PVFP) and deferred acquisition costs. In merger and acquisition situations, when a company buys a life insurer or a closed life insurance portfolio, the acquirer generally triggers a proportion of the present value of future profits relating to the acquired company. By completing a securitisation deal, the insurer is able to monetise the present value of this stream of future income.

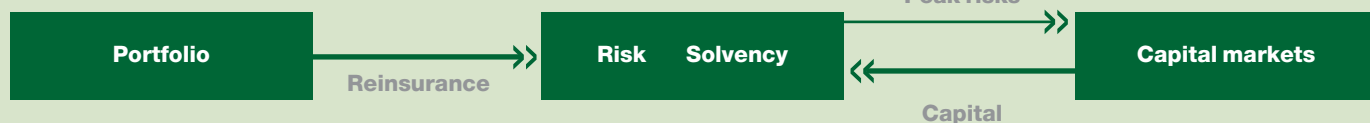
Insurance broking houses such as Guy Carpenter and Willis note that the turmoil in the credit markets has not impacted in any

Insurance-linked securitisation business models

Historic approach towards risks: buy and hold



Current approach towards risk: securitise peak risk



Ambition: accelerate the balance sheet



appreciable way on the appetite for ILS by capital market investors.

Speaking in January and quoted in *The Financial Times*, Peter Hearn, the CEO of Willis' reinsurance division, said: "The downturn in the wider credit markets has in no way dampened capital market appetite for insurance risk, as \$1.4 billion of catastrophe bonds were issued in the last three months."

And Benfield's head of industry analysis and research, Julianne Jessup, agrees: "The sub-prime crisis highlighted the attraction of investing in uncorrelated reinsurance risk. Buyer demand for sophisticated alternatives to conventional reinsurance continues to evolve and shows little sign of being choked off by lower rates." Certainly, the ILS secondary market has proved buoyant and cat bond trading has increased.

Looking ahead, as regulatory regimes such as Solvency II are implemented that encourage insurers to hold less reserve capital, and as investors become even more familiar with the instruments available, the market should flourish.

Indeed, Swiss Re's CEO, Jacques Aigran, forecast the volume of outstanding ILS is forecast to grow to as much as \$750 billion by 2016. This should mean that brokers here in the UK will be able to select a much broader and deeper range of insurance products at competitive tariffs for their client base.

Certainly, as securitisation becomes more common, transactions costs should fall. In a clear sign that the ILS market is rapidly maturing, the rating agency Fitch decided at the beginning of 2007 to form a global analytical working group to rate insurance linked securities.

To summarise why the ILS market has developed at such a rapid pace since 1999, one can identify four key drivers, namely:

- regulatory requirements surrounding capital adequacy, especially in the USA and Europe
- greater shareholder activism, often linked to the role played by hedge fund investors
- opportunities to monetise embedded value in the policies held by insurance companies
- the desire to hedge specific risks, notably catastrophe-related risks.

Turning to the future, there is the prospect of extending securitisation to other risks, notably mortality risks. Paul Thornton, a former president of the Institute of Actuaries and currently a managing director of Gazelle Pension Advisory, believes longevity bonds may prove to exert a dramatic influence, for example, on the UK pensions sector.

"Once a market develops in longevity bonds, pension schemes will be able to hedge longevity risks, and annuity insurers will be able to provide annuities more cost-effectively. The starting point is the creation of suitable longevity indices. Then, just as index-linked Government bonds in 1981 were based on the Retail Prices Index, longevity



bonds can be based on them, and hedging strategies will then evolve."

There are abundant signs that investor interest in insurance-linked securitised paper is widening and deepening. Banks and insurers are working hard to develop a range of tailor-made derivative and swap instruments that meet their needs.

Such financial instruments enable them to trade risk, often on an anonymous basis through baskets of industry-specific swaps or derivatives. The risks covered in this way include weather catastrophes and any other natural events, such as earthquakes, which the market players involved are unable to control.

In the past, both the insurance and reinsurance sectors have been constrained by a record of poor communication with investors and commentators outside its immediate orbit.

Insurance cycle

To many observers, the industry has appeared to be dominated by a close-knit priesthood of insiders who speak an arcane language familiar only to themselves.

What is more, an analysis of the insurance industry's record of long-term profitability reveals that it has lagged behind that of the banking sector. It has certainly been prone to far greater volatility, as the insurance cycle seesaws between its 'hard' and 'soft' phases.

From an investors' viewpoint, the insurance sector has been poorly regarded and poorly understood relative to other sectors. As Standard & Poor's point out: "Opaque financial reporting, poor risk management, limited capital market disciplines, and regulation unresponsive to risk have been synonymous with its history."

However, this malaise is now being tackled. Reforms are being implemented to make reporting considerably more transparent, and there is a far greater focus on risk management.

But our *International Financing Review* (IFR) study also highlights another potential development in the relationship between insurers, reinsurers and investment banks. This opportunity was signalled in September last

year when it was reported in *The Daily Telegraph* that a private equity fund established by Goldman Sachs had sought to acquire Benfield, the reinsurance broker, for a figure reported to be around £700 million. Merrill Lynch was named as the investment bank adviser to Benfield, while HSBC was also said to be lined up to help finance the deal on behalf of Goldman Sachs.

Sliding premiums and stiffer competition signal tougher times ahead for many in the broking and insurance worlds. Already we have heard rumours of bids for other leading brokers, most notably Marsh, which has attracted the interest of activist shareholders such as the billionaire financier, Nelson Peltz.

What we might well see next is investment banks moving into the territory currently occupied by brokers and underwriters. To do so, investment banks, perhaps through their private equity subsidiaries, may acquire broking businesses and specialist underwriters to analyse and securities a range of risks. Then again, they may decide to set up afresh and hire the talent they require to compete against existing players in the marketplace.

With the securitisation market for mortgages and other forms of debt looking increasingly shaky, the onus is on those clever rocket scientists at investment banks to look around for other risks to trade. Insurance risks, in the form of catastrophe risks, life insurance risks and motor vehicle risks – not just in Europe and North America but also increasingly in the Brazilian, Russian, Indian and Chinese economies that look ever more attractive in this context.

One thing is for sure, maintaining the status quo is not a sustainable option.



Keith Boyfield is the founder of consultants **Keith Boyfield Associates**. He is the author of the forthcoming study on *Global Insurance & The Capital Markets*, published by *International Financing Review* (Thomson Financial)

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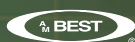
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Looking forward to Influencing Tomorrow



Thinking ahead (left to right): Lindsay Campbell, Eric Galbraith and Leighann Burtrand

BIBA's 30th Anniversary Conference will be held in Glasgow. Organiser **Nick Chapman** has the inside story on what's in store for delegates

Key members of the BIBA conference planning team give their views on what Influencing Tomorrow will mean and why they are anticipating the perfect mix of inspirational speakers, invaluable business advice and sheer, unadulterated fun.

Eric: "As a Glaswegian, of course I'm delighted that we're coming back to my home city for our anniversary conference. Especially as I had very fond memories of the last time we were in Glasgow, in 2004, which was my first conference as BIBA's chief executive. I've no doubt that brokers will appreciate what Glasgow has to offer – the city has undergone dramatic redevelopment and now boasts superb facilities."

Lindsay: "I also really enjoyed the 2004 conference. The facilities at the SECC are excellent. There's an enormous auditorium and plenty of room to grow the exhibition. The conference ran very smoothly last time and I'm sure will do so again. And with the Thursday evening event in Halls 1 & 2, it means delegates will be on the spot to attend."

Leighann: "Talking of which, I'm really looking forward to the Thursday evening function. I'm not sure I've ever been to a funfair indoors before – it sounds great. Last year's Leadenhall Market evening was a big success but the combination of the dodgems and Kangaroo Boxing sounds even better."

Eric: "I think we might have to introduce some 'rules of engagement' before letting brokers and insurers loose in the boxing ring."

Lindsay: "So apart from the Thursday funfair, what else are you both looking forward to?"

Eric: "Well, I'm pleased with the seminar programme and I've picked out a few sessions which I think will be very popular. The SME online marketing session for instance and the Law Commissioner's report should both be very

topical – the chance to hear David Hertzell speak on proposed reforms should be illuminating for all of us in the industry."

Lindsay: "I've got my eye on a couple too. 'Dealing with Pressure' sounds perfect for conference organisers and I'm certainly not going to pass the opportunity of learning about the Red Arrows teamwork. Do you think there's a chance they'll be in uniform?"

Leighann: "Hope so. Well now we're talking about Friday, obviously there's one highlight we haven't mentioned yet. And that's Bob Geldof. I'm really looking forward to hearing from him. Although I don't really remember the original Band Aid, you can't help but be aware of what he achieved."

Lindsay: "Unfortunately I can't claim not to have been around in the 80s. Yes, I'm sure he'll prove to be a really big draw. I know he doesn't speak to many 'corporate' audiences so I'm hoping that not many of our broker delegates will have heard him speak in person before. This Friday closing session is always the most difficult to plan for. We try to aim for someone inspirational or funny, preferably both. I think this could be one session that delegates talk about for years."

Eric: "Yes, I agree with you. Sadly I have vivid memories of Band Aid, Live Aid and the whole Ethiopian famine problem, and he was like a breath of fresh air at the time, cutting through bureaucracy and formality with his single-mindedness. He should be a great closing presenter. But there's one speaker we haven't mentioned yet, who I'm also looking forward to."

Lindsay: "I'm guessing you mean Frank Gardner?"

Eric: "Absolutely."

Lindsay: "Yes, I'm really pleased we've got Frank to speak this year. We've thought about having him speak for a number of years, so I'm really happy it's worked out this time. If we're

looking at what the future holds for our industry we really can't ignore the whole subject of global terrorism and Frank Gardner's role as the BBC's security correspondent gives him access to a number of well-informed sources."

Leighann: "And, of course, he has a very personal story about what global terror looks like face to face. There is also going to be a lot going on to keep the media occupied and I think journalists will find a lot of hot industry topics are covered at this year's conference."

Lindsay: "OK, so aside from the conference sessions, what else are you looking forward to?"

Eric: "Well, definitely the exhibition is a major highlight. It's a fantastic arena to meet people and to see at first hand what new initiatives are happening in the market. Having all the major players together under one roof is a great opportunity. I just hope brokers use the time available to meet as many insurers and suppliers as they can. So I'm delighted we've found some extra room in the programme to spend more time in the exhibition hall."

Lindsay: "For me, the gala banquet is always one of the highlights. The banquet is my chance to say goodbye to that year's event, having been planning it for months and months. So a relaxed fun night is just what I need."

Eric: "Yes, I look forward to the banquet as well. It's one of the highlights of the year for me and this year the kilt will feel at home in historic Kelvingrove, which has recently been restored and is a world-class art gallery and museum."

Lindsay: "I can't wait to hear Heather Small, who has such a memorable voice. And having seen comedians Tim Minchin and Michael McIntyre I know we're in for a treat."

Leighann: "Let's finish with your personal tips on getting the best out of the time in Glasgow. Eric?"

Eric: "Bring an open mind, enjoy the occasion and keep your energy levels up."

30 years on and still going strong

Brian Susman, consultant editor of *Brokers' Monthly*, has attended every BIBA conference and shares some memories of events gone by

Like many of you, I'll be off to Glasgow at the end of April for the 30th annual conference of BIBA. It seems like only yesterday that I was in Birmingham for the very first conference – and I've been to all of them in between, to report for *Brokers' Monthly* – I really should get out more...

In 1978, the fledgling BIBA took itself off to the NEC site for its conference at what was then known simply as the Metropole Hotel. To remind you just how long ago that really was, 1978 was the year when: the Camp David peace treaty was signed between Israel and Egypt; the first test-tube baby was born in Britain; and "Space Invaders" was launched in Japan.

At the NEC, no more than about 200 turned up for the first BIBA conference. The previous broker bodies – CIB, AIB, FIB, and LIBA – had all run their own conferences from time to time, so there was a degree of expertise readily available for Birmingham 1978.

At that first conference there were no star names, no exhibition, and no sponsors (the costs had to come out of members' subscriptions). Everybody paid for their own ticket and the sponsored places which are so popular now did not exist.

In 1978 the broker was king. Intermediaries controlled vast swathes of both personal and commercial business. Direct Line was but a faint gleam in someone's eye.

Insurers were determined to keep on the right side of their – in many instances – only source of revenue. No insurer wanted to put his head above the parapet in open discussion and offend his lifeblood, so the mood at that first conference was noticeably restrained.



In earnest conversation at an early 1980s conference with the then BIBA chairman, Dickie Alexander (right), and Coventry broker John Price (left)

The conference has come a long way since then. The major changes are:

- the use of purpose-built conference centres rather than hotels
- an ever-expanding exhibition to run alongside the conference
- a professional approach to conference production
- distinguished speakers from outside insurance
- the sponsored broker scheme.

To take those changes in turn. Purpose-built conference centres mean more room for large events, plus better sound and vision facilities. The exhibition has materially helped develop the "meet and greet" aspects, as well as providing some contribution towards costs. The arrival of the conference "production number" has given the event a gloss it never had before. Star names as



guest speakers have helped attendance figures. And sponsored broker places have meant the disappearance of the "find the broker" game that was beginning to gain ground.

As for some personal reminiscences from 29 years of BIBA conferences, I have more than a few.

My most memorable conference venue was Paris, although the *Brokers' Monthly* postbag at



A youthful-looking Brian Susman at a horse race evening at a late 1970s conference, with a friend, publisher John Sadler, on the left. Note the trendy frill-fronted shirt and sideburns!



The author with Halesowen broker John Davidson and his wife Jill, at a BIBA conference "gangsters and molls" theme evening in the 1990s

the time showed that some members were strongly against the idea of a non-UK conference. I also remember the final night's banquet at Chantilly; the all-pervading equine smells there could not detract from the excellence of the cuisine.

My most memorable conference presentation was the Robin Hood skit produced by the BIBA Partnership Initiative insurers at the Nottingham conference – the star of that show was the pink tights worn by one of the well-known participants.

The best "star name" speaker was, to my mind, William Hague. If ever he needed some job other than MP, he could surely earn more than a crust as a stand-up comedian.

The best exhibition venue was the G-Mex centre in Manchester. It was able to accommodate the numbers easily, was comfortable for exhibitors and delegates, and had good catering. Incidentally, we've also had some which were more hit and miss, such as the Brighton Metropole, where some delegates are to this day still trying to find their way around three floors of exhibition stands.

And to end with a favourite "quote of the conference" – the comment from a Scottish broker who, reflecting on some favourable development for brokers, said "There is a crack in the ice ... and we must build on it".

We'll see what little gems Glasgow has to offer this time around. See you there!

Memories from *Post Magazine*

Although few can equal Brian Susman's record, industry bible *Post*'s team from Incisive Media has also completed many years' conference reporting service.

Ant Gould, group editor in chief, comments: "My first Biba Conference was in 1999 – just before BIIBA became BIBA, dropping the 'I' for investment, and my first real memories begin in 2000 at Edinburgh in the reign of chairman Simon Bolam – when the message was very much about dual pricing and fears that some insurers were being brokerphobic... some things never change.

Next stop was Belfast where the nightlife was excellent – and the General Insurance Standards Council was the talk of the town – along with a lot of hype about the internet-based broking solution 24/7 which was, in the end, ahead of its time.

In 2002/2003 *Post* and *Professional Broking* became the official media partners for the conference – starting at Bournemouth – and it is from then that the real work started with producing the daily BIBA Bulletin.

I have many fond memories from recent years – most of which revolve around late nights, early mornings and tired feet.

And as the exhibition has grown, so has the size of the shadows under the eyes, the hangovers and the blisters. Covering all the main conference sessions is always a challenge, but it is being out on the exhibition floor where the real buzz can be felt – and the gossip garnered. Bournemouth 2003 was also the conference where presenter Adrian Chiles had a disturbed night – having been confronted by two skinny dippers the night



Ant Gould, group editor in chief, Incisive Media

before – one of whom it transpired was BIBA's then chief exec, Mike Williams.

And, David Worsfold, group editorial services director, remembers: "Bob McCrindle's Parliamentary reports were always a highlight of the early conferences. They lent some vital gravitas to the proceedings which was important for a fledgling trade body. He was also the only person there capable of engaging the audience first thing on a Saturday morning!"

At one conference in Bristol back in the days when I was editor of *Insurance Age*, the life side of the industry was marketing some rather strange products called Capital & Income Bonds. These had been widely expected to get the chop in the Budget, but somehow escaped the Chancellor's notice.

I rashly wrote a piece entitled "Bright Future for Capital & Income Bonds" which appeared in the issue that went to the BIBA conference.

Lo and behold on the first day of the conference, some six weeks after the Budget, the Government slipped an amendment into the Finance Bill to axe these bonds and this was announced from the platform. This was the cue for Brian Susman, sitting on the press table at the front but on the opposite side of the auditorium to me, to hold up a copy of my article for all to see. Brian being Brian was easy to forgive, despite the humiliation.

The conference transformation under Mike Williams' guidance was remarkable. It had lost its way and had become a 'spot the broker' competition. Suddenly it was teeming with brokers and has never looked back.



David Worsfold, group editorial services director, Incisive Media



Good timing: Oorlagh Chapman, a member of the British Shops and Stores Association (BSSA's) insurance department visited every BIBA scheme provider at last year's London conference – and picked up a timely prize for her efforts – two Breitling watches.

The Conference Programme

Wednesday 30 April

18.00 Opening reception in the Exhibition Hall
20.30 Exhibition closes

Thursday 1 May

09.30 Welcome
Derek Thornton, chairman, BIBA
09.45 Opening address
Eric Galbraith, chief executive, BIBA
10.00 – 11.15 Influencing tomorrow
Panellists: Professor Stéphane Garelli, Dr Noreena Hertz and the Hon James Rubin. Hosted by Declan Curry.
11.25 Refreshment break and networking session in Exhibition
12.30 – 14.00 Lunch
14.10 – 15.00 **Seminar Session 1**
Stream 1
Motor insurance issues facing us today
Speaker to be confirmed
Stream 2
The psychology of persuasion
Phillip Hesketh
Stream 3: Smaller Broker Session
Online threats and how to defend yourself in the 21st century
Harry Croydon, Coverpoint and James Harrison, Insurancewide
15.15 – 16.00 Refreshment break

16.10 – 17.00 Seminar Session 2

Stream 1

Managing tomorrow's risks: it's an interdependent world out there

Dr Alan Punter and Alex Hindson, Aon Global Risk Consulting

Stream 2

Dealing with pressure

Lucy Beresford

Stream 3: Smaller Broker Stream

Listen to the voice of your customer

Tony Tarquini, Celerant Consulting

17.30

Exhibition close

Friday 2 May

09.30 Welcome back
Eric Galbraith
09.35 *The continuing threat from Al-Qaeda*
Frank Gardner OBE

10.30 – 11.20 Seminar Session 3

Stream 1

Insurance contract law reform – the story so far

David Hertzell, Law Commissioner

Stream 2

Flooding – the aftermath

Phil McNeilage, Cunningham Lindsey UK

Stream 3: Smaller Broker Stream

Mission excellence

Justin Hughes, ex-Red Arrows

11.30 – 12.00 Refreshment break

12.10

Is that it?

Bob Geldof KBE

13.00

Conference close

Derek Thornton

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Find out about the latest conference and exhibition news. Log on to www.biba.org.uk and follow the link to 'Influencing Tomorrow'



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Putting the brakes on uninsured drivers

New chairman of the Motor Insurance Bureau, **Keith Morris**, talks to **Rachel Gordon** about progress made in clamping down on illegal motorists

There was a good start to 2008 for Keith Morris. Newly appointed as the chairman of the Motor Insurance Bureau (MIB), he heard the welcome news that there had been a fall in the number of uninsured drivers.

Keith is also managing director of insurer Sabre and took over from Norwich Union customer services director Simon Machell, who gave up the MIB role when he became chief executive officer of Aviva Asia, relocating to Singapore.

"Simon Machell of Norwich Union, and Ashton West of Iron Trades did most of the hard work getting the MIB to where it is today and my job is to assist where I can in making sure that we continue on this path," comments

Keith, who took over in July 2007.

Keith has many years' experience in the motor insurance industry, including participating on ABI committees linked to uninsured driving and also contributed views to the Government-backed Greenaway Report in 2004 – which aimed at finding long-term solutions to the problem.

Certainly four years later there is encouraging news. Efforts from the insurance industry, the Government and police have all played a part in reducing the number of uninsured vehicles on the road.

In 2007, some 150,000 vehicles were seized by the police, a considerable increase on 2006, when the number was 78,000. Overall, the number of uninsured drivers has fallen by 10

per cent over the past two years.

Keith explains a number of factors have resulted in the much-improved situation.

"The Fourth EU directive aimed at assisting the victims of accidents across Europe required all EU Governments to establish an information centre. The motor insurance database (MID) was established by the insurance industry and the inclusion of vehicles became mandatory. But, the Greenaway Report also brought together a range of recommendations specifically for the UK. The effectiveness of the database was boosted through increased use of automatic number plate recognition technology by the police. If it is found a vehicle is uninsured, then the police have the authority to crush and destroy it."

Seizures

In 2007, more than 150,000 vehicles were seized with around 40 per cent subsequently crushed. A further advance has been a dedicated police helpline run by the MIB, so that help is at hand if more information is needed.

"Further measures are on the way. In

particular, in 2009 Continuous Insurance Enforcement (CIE) will be introduced, a new offence if a vehicle is kept without insurance, whether or not it is being used – unless it has been SORN'd," he comments.

A fixed penalty regime will be introduced for identified cases of no insurance using links between MID and DVLA databases and the offence will target the registered keepers of vehicles.

There have long been complaints that the fines given out by the courts for uninsured driving do not reflect the crime. As Keith says: "The fines currently imposed by the courts are clearly too low to act as a disincentive, particularly as they are often significantly below the premium that the uninsured driver would have been paying had they bought insurance. However, seizing and crushing the car is a far more persuasive punishment and indeed the police have seized more than 200,000 uninsured vehicles over the past two years. There will be fewer and fewer places for an uninsured driver to hide and we are already seeing their numbers falling."

Claims

In the past, anyone involved in a claim against an uninsured driver – and there can be as many as 35,000 claims against uninsured or untraced motorists a year – could well have had their patience tried. The process was often slow and to critics, inefficient.

But there have been improvements, as Keith explains: "You have to remember that these are often complex claims and many of them involve personal injury. But, the MID is a much changed organisation from five years ago, now handling the majority of claims in-house and doing so in a timely and professional way."

He says he became aware of a very different mood in the organisation, following the arrival of chief executive Ashton West, a former claims director of Iron Trades, in 2003.

"He was determined to focus far more on managing claims in-house with the aim of settling them faster. Before, they were becoming too held up by legal delays. Now, there is a marked difference and overall claims are being handled as quickly as possible leading to a much better service for claimants."

And it now has in place a scheme, the 'Fast Track Understanding', to lead to quicker settlement in cases where liability is not disputed and where the likely cost of compensation does not exceed £10,000.

He points out the Financial Ombudsman does not get involved to any extent in MIB claims as these are third-party, rather than first-party claims. "Although the Ombudsman now has a remit for a short period on third-party claims, the overall industry numbers are extremely low and I am not aware that the MIB



the insurance industry, the Government and police have all played a part in reducing the number of uninsured vehicles on the road

has had any claims referred to the FOS," he says.

Looking ahead, he says there is no room for complacency. "The insurance industry – and indeed brokers – has an ongoing role in ensuring the database is both accurate and up to date. Because we can show the database works, the police are extremely supportive. Not least because uninsured drivers may well have other links to criminality – for example, cars have been stopped and guns found. But we will

alienate them if they start to pull over drivers, who it turns out, are legitimately insured, but details have not been updated."

He points out continued efforts must be taken by all parties to ensure the number of uninsured drivers is further reduced. "The cost of bodily injury claims is rising and the levy on insurers must be brought under control. And, one of the ongoing challenges is continuous improvement in both the timeliness and integrity of the MID to ensure its fitness for both current and future usage. Brokers will play an important part in this. We also need to work with the ABI on wider industry initiatives such as reform of the compensation system and reducing the cost of credit hire."

BIBA has been a long time supporter of the MIB and Keith frequently comes across its representatives at meetings at the Department of Transport and the ABI as well as the MIB.

"Brokers have played a vital role in ensuring that the database is updated in a timely way; without this assistance from the broking community, the MID would not be nearly as effective as it is today."

To keep up to date, he says the MIB produces a broker guide addressing key areas for attention in both MID1 and MID2 (for private and fleet cars respectively). "The MID has an email facility for broker queries and I'd also recommend they visit the website of the Motor Insurers Bureau at www.mib.org.uk (which provides guidance on the work of the MIB) and particularly the Information Centre section to receive its regular newsletter."

Meet Keith Morris

Keith Morris graduated with a degree in Economics from Southampton University in 1974.

He began his career at Excess Insurance Company (now part of Norwich Union) in Worthing before moving to its City office in 1977.

He then worked for CIGNA (now part of ACE) and GAN (now Groupama) in the City before joining with several colleagues to set up intermediary and administrator BDML in 1998. Keith is part owner of BDML Group (now Binomial Group).

In 2002, when the BDML Group purchased Sabre Insurance, Keith became its chairman and chief executive. In addition to Sabre, Binomial Group owned BDML Connect, a large personal lines intermediary, that it sold to Capita in 2005.

During his time at GAN Keith served on several ABI committees and as Chairman of the CEA (Comité Européen des Assurances) Economics and Finance Committee.

Apart from the MIB, he chairs the ABI's GIC Members' Forum, the General Insurance FOS Liaison Group and the General Insurance Taskforce on Older Policyholders. He sits on the ABI GIC Management Committee, the ABI Motor Committee and the ABI European Committee.

Keith is also a member of the FSA's Small Business Practitioner Panel as representative of the insurance industry.



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Time-pressed brokers can catch up on the work-related topics that matter in our regular round-up

LEGAL LATEST

Keep the noise down!

Noise regulations can cover all manner of activities such as motorsport, shooting or open air events, but by far the biggest concern is music.

High-quality sound systems installed in modern bars and nightclubs mean less distortion and a greater tendency to turn-up the level. Coupled with the modern dance music trend of very heavy bass, the risk to employees can be serious.

Music and entertainment sectors are defined in the Noise Regulations as all workplaces where live or recorded music is played in a restaurant, bar, public house, discotheque or nightclub, or alongside live music or a live dramatic or dance performance.

Noise Regulations pose a new challenge for employers, owners and operators.

The Control of Noise at Work Regulations 2005 (Noise Regulations) came into force in April 2006, however the music and entertainment sectors were allowed a two year transitional period.

This recognised that music is unusual as it is noise deliberately created for entertainment. With the


new regulations now in full force from 6 April 2008 and specifying lower exposure limits, duties are placed on employers to:

- assess the risk to employees of noise at work
- take action to reduce noise exposure
- provide employees with hearing protection – where the noise cannot be reduced
- provide instruction and training to employees
- carry out health surveillance – where there is a risk to health.

Policyholders insured with BIBA's ClubPM scheme automatically qualify for risk management advice provided by the Tasker and Partners Ltd ClubSAFE programme. Our advisers will work with customers and discuss solutions to ensure compliance, which could include:

- the installation of tamper-proof noise limiters
- the application of sound-absorbent wall and ceiling linings
- the provision of protective equipment to employees (including hearing protection) and training to ensure its correct use.

Details of ClubPM can be found at www.taskerpartners.com/night or call 020 7623 4133.

 **Paul Tasker is managing director of Tasker and Partners Ltd, the providers of BIBA's late night entertainment scheme, ClubPM**



Paul Tasker



Make vehicle security a priority

The Vehicle Systems Installation Board (VSIB) is reminding brokers it can offer them valuable assistance and help reduce risk, claims and fraud.

Stephen Coney, VSIB's general manager, comments: "When insisting on vehicle security, insurers should recognise that no matter how good a system is, it is only as good as its fitting.

"That's good advice, but does it filter down to the brokers? Not necessarily. VSIB is a partner in the fight against vehicle crime and insurance fraud. Make good use of us."

VSIB was set up in 1994 at the instigation of the Home Office, police, insurance industry, vehicle manufacturers and security manufacturers to enforce a code of practice. Its accredited installers issue certificates of installation which are also guarantees of fitting standards.

Inspectors employed by VSIB are experts with long experience in the industry, who visit every accredited company, as well as carrying out random spot checks.

VSIB's approved installers have all been inspected against a rigorous code of practice, with the administration of their business

vetted as well as fitting standards.

With the introduction of Category 5 After Theft Recovery Systems came the Association of Chief Police Officers' (ACPO) insistence that anyone fitting Category 5 systems must be VSIB-accredited.

Category 5 is an important new development said Mr Coney, but like the VSIB, is not being used enough by the insurance industry.

In addition, plant theft and what to do about it will be a focus in 2008, he says. Thatcham is preparing to launch the criteria for plant security while the VSIB already has its code of practice for plant.

Meanwhile, 2008 will see the introduction of online certificates of installation. The installer will download the template and complete it on screen.

It will then be sent electronically to a database that insurers can access for verification purposes and see in real-time.

Mr Coney said this would make it easier for brokers to insist on the standards which VSIB delivers.

He adds that until then, any verification needed can be obtained by contacting the VSIB on telephone 01708 340911 or email at email@vsib.co.uk. The website is at www.vsib.co.uk.



A risk assessment specialist says experience of professional indemnity shows that 70 per cent or over of complaints and successful claims arise from administrative errors and only 30 per cent arise from negligent professional advice, knowledge or skill.

Tony Pardoe, director of consultancy BusinessEye, says for brokers, the figure of 70 per cent is considered to be conservative given the insurance industry involves a lot of administrative processes.

He explains the disruption caused by a complaint or successful claim can be substantial and can bring about damage to reputation, impairment to delivery of services, disruption of routines and schedules, additional unbudgeted expenses of representation and remedial costs. And he is advising brokers to assess those risks associated with an organisation's business processes and administration.

Mr Pardoe says brokers can do this not only for their own organisations, but their clients as

well, so generating another fee-earning opportunity.

"It enables brokers to offer risk management services which some, if not all, are looking to introduce to show that they add value to their clients."

He explains for risk exposure to be identified and measured effectively it has to be both accurate and economic. "In effect, it needs to be in the form of a corporate X-ray."

Mr Pardoe advises brokers to take a cross section of all personnel from directors or partners through to support staff and consultants and that the individuals' answers should be confidential and non-attributable.

He adds an assessment can be economical provided "it generates an actionable insight through analysis and interpretation of assessment responses giving a comprehensive, independent and unbiased perspective of the entire business, by those within the business."

He states it should enable the business to:


- ascertain and evaluate any inherent risks and to assess the probable ability of the organisation to defend a claim
- take a view on the effectiveness and efficiency of the

management of the business and its compliance with any regulatory requirements

- target specific weaknesses for action and monitor satisfactory areas for consistency
- reduce levels of risk exposure leading to standardised and improved operating procedures, which in turn lead to increased profitability.

Mr Pardoe says in today's commercial environment anything that involves expenditure of money or resources needs to be justified. So he recommends brokers outline the benefits to an organisation of carrying out a risk assessment which include:

- increased risk awareness
- invaluable management information
- the ability to target objectively and prioritise risk management action
- measurement of the effect /progress of remedial action
- increased profitability
- improved PI insurance negotiations.

 **For further information on risk assessments, contact Tony Pardoe on 0207 959 3005.**

Working through a crisis

Businesses regulated by the FSA should, by now, have implemented and tested their Business Continuity Plans (BCPs), advises consultancy D3 group.

Director Adrian Graves says in the majority of cases brokers should be able to demonstrate that their off-site IT back up works and where applicable they can show the alternative office accommodation will enable them to continue to run the business satisfactorily.

D3 offers specialist outsourced services to assess and meet a range of statutory Health & Safety and HR requirements.

He adds a further problem

exists if the broker's staff cannot or do not want to travel to work over an extended period perhaps for reasons of a terrorist attack or flu pandemic.

According to Mr Graves, a London broker thought a solution to this problem would be to ask staff to work from home or some other remote location.

As a result, they retained D3 to conduct an online survey/questionnaire to ask their staff what IT and communications systems they had at home to find out which could adequately access the corporate systems remotely.

He also says that companies are now asking what their


employees' commuting arrangements are in order to help them identify any problems they might have getting to work following a major event on a commuting route.

"The results threw up some data which surprised them, as they had assumed most of their staff would have adequate IT at home. Not so – 20 per cent did not have access to a computer at home and 10 per cent of those that did were not on Broadband. In effect, this meant that 30 per cent of employees could not access the corporate systems remotely," he comments.

He adds a number of companies believe they have this

problem covered by providing access to corporate systems via Citrix or Desktop, but points out: "This will not be the solution if the IT equipment or software at home is incompatible or staff are not on Broadband which has sufficient speed to work."

Mr Graves concludes that brokers should avoid hoping "they will be alright on the night" without making thorough checks to see that this really is the case.

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New name behind world-class travel cover

Towards the end of last year, BIBA appointed Tokio Marine Europe Insurance Limited to underwrite the all-new BIBA Protect Travel Scheme.

The scheme, which is exclusive to BIBA members, provides brokers with a web-based solution enabling them to sell travel insurance through their own branded website.

Members can upgrade policies mid-term, renew online and have access to bespoke underwriting via decision making underwriters at Tokio Marine Europe. The new scheme is also well suited to supporting affinity schemes and employee groups.

Tokio Marine Europe will continue

supporting traditional pad facilities to all BIBA members and will offer the flexible service this BIBA scheme has always enjoyed.

The scheme provides excellent policy cover, with many enhanced benefits, including:

- single and annual multi-trip cover with £10 million medical cover
- independent travel for all insureds, including children
- no terrorism exclusion
- children within a family policy are covered up to the age of 23 if still in full-time education, even if not residing at the same address
- many hazardous activities (such as scuba diving) are covered as standard
- single excess applies per family, per incident
- infants three and under travel free



Hotel and guest house cover is just one area covered by Towergate commercial insurance

- adults can be covered up to the age of 85 on a single trip policy, 75 on an annual multi-trip policy for Europe and 70 for rest of the World
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- pre-existing medical conditions may be covered, subject to medical screening.

Tokio Marine Europe Insurance Limited is rated AA for financial strength by Standard and Poor's and the Tokio Marine Group has over US\$ 19 billion of annual premium income, and assets in excess of US\$ 132 billion.

For more information contact Geoff Chapman on 0207 398 2944 or Dipesh Patel on 0207 398 2498 or email travel@tokiomarine.co.uk

A winning commercial combination

Towergate Commercial Underwriting (TCU) has a deliberately different approach to commercial insurance – and believes in helping to manage the risks that businesses face.

Traditional insurance cover is of course important but so is improved health and safety

and loss reduction initiatives – an area in which TCU excels.

This gives BIBA members a strong differential in the market as you are able to offer TCU's unique risk management package – included automatically in the client's commercial combined cover.

The TCU Commercial Combined Package offers a range of attractive benefits, including:

- enhanced/negotiable commission deals
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It also offers:

- competitive pricing with price match of expiring terms for account transfers, flexible new business rating and £250 minimum premium
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For more information, contact Nick Hopkin on 0870 901 2596 or email tcu@towergate.co.uk

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Equity Insurance Brokers has joined up with BIBA to offer a Personal Lines Administration Facility.

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This is the ideal solution for members in a variety of situations. For example, they may find they have too much pressure on existing staff levels, or have lost a key member of staff or may be having to employ additional resources.

These are three very serious and costly situations for a member to find themselves in, particularly if their resources are already stretched to breaking point.

The priority for Equity is to look at how the problems can be resolved and place the member in an even better position than before, namely by covering the loss of someone or meeting the costs of a new employee to handle other areas of the business. Or the member can simply enjoy the profit gained.

Allowing Equity to administer business, whether it be a private car account, household or both, has benefited many brokers over our 45 years, from sole traders to nationals.

Visits to Equity's contact centre in Colchester are encouraged, whenever possible, so members can see for themselves exactly how their business will be administered – and developed – whenever possible. And you may speak to us about any plans in confidence.

For more information contact Steve Young on 01277 206176 or email steve.young@equitygroup.co.uk

Steve Foulsham is BIBA's technical services manager



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A call for clarity

Brokers must make sure their terms and conditions are absolutely clear to customers or they risk censure from the FSA, warns **Hywel Evans**

As part of its treating customers fairly (TCF) initiative, the FSA is reviewing consumer contracts for terms that it considers are “unfair” under the Unfair Terms in Consumer Contracts Regulations 1999 (Regulations).

Last summer, independent financial adviser Hayburn Rock, was pulled up by the FSA – the FSA considered a term in its mortgage terms of business to be unfair pursuant to Regulation 7 (1) which states a firm must ensure any written terms of a contract must be expressed in plain intelligible language.

The regulator said a term did not clearly explain to customers how the firm was going to charge for the independent financial advice it gives.

At one point, it was said the independent financial adviser would disclose any commission it received to the customer, but later it said it would only do if the customer asked it to. The FSA stated consumers may not have been clear as to what was meant.

The FSA subsequently pointed out that Hayburn Rock was fully co-operative in agreeing to the undertaking and amended the term. It now clearly states how much commission it receives and that customers can also pay fees rather than commission being received.

The Regulations

The Regulations implement the European Directive on Unfair Contracts 1993. They are designed to ensure that terms in standard form contracts with consumers are fair and not imbalanced against the consumer.

They only apply to post-July 1995 standard-form consumer contracts and include brokers' standard terms of business agreement (TOBA).

Advertisements for financial services, a financial service product or Keyfacts Illustrations (KFIs) are not standard-form contracts.

The OFT and FSA Concordat sets out the principles of their working arrangements within the Regulations. The FSA will decide fairness of standard terms in financial services contracts issued by authorised firms and their appointed representatives for regulated activities. These include contracts for:

- mortgages and selling of mortgages
- insurance and selling insurance
- pensions
- investments
- long-term savings.

For financial services contracts within the FSA's remit where the firm concerned is not an authorised firm or appointed representative, the OFT will consider fairness issues under the Regulations.

There are two main ways in which the FSA may learn of a firm's unfair terms:

Namely as a result of complaints from

consumers or consumer groups. Or, secondly, by conducting reviews of contracts in particular areas. The FSA has recently looked at mortgage exit administration fees, payment protection insurance, mortgage early repayment charges and statutory rights.

Fairness

When deciding whether a term is unfair, the FSA does not review all terms of a contract for fairness. The Core Terms (what the consumer gets and how much the consumer pays) are not reviewed.

A term will be unfair if (contrary to good faith) it creates significant imbalance in the parties' rights and obligations to the detriment of the consumer. According to the OFT, "good faith" means dealing fairly and openly with consumers.

It is the duty of good faith that gives the FSA powers to review terms under the Regulations that fit with the obligations contained in the Financial Services and Markets Act 2000 and the Principles of Business which underpin the TCF initiative: see Principle 6 "to pay due regard to the interest of its customers and treat them fairly".

The assessment of fairness takes into account the nature of the services, all circumstances at conclusion of the contract and all other terms on which it is dependent. Ultimately, the court decides whether a term is unfair.

Schedule 2 to the Regulations sets out an indicative and non-exhaustive list of terms which may be regarded as unfair. Examples include:

- excluding or limiting legal rights or remedies when the broker has failed to meet its obligations
- charging disproportionately large sums if consumers do not fulfil obligations under the contract such as when a consumer fails to pay a premium on time
- interpreting terms of the contract as the broker sees fit
- making the customers fulfil all their contractual obligations while letting brokers avoid theirs
- tying customers into the contract where they have not had a real opportunity to understand the terms before signing it
- misleading comments about the consumer's legal rights.

The FSA is concerned about terms that permit unilateral change to the contract without a valid reason being specified in the contract including changes in price, interest rate or insurance premium (contract variables). The FSA has produced a Statement of Good Practice setting out how such terms are less likely to be unfair. In summary:

- the term can allow a contract variation only for a valid reason specified in the contract; or

- the term permits a change in a contract variable only if there is a valid reason (not specified in the contract) and the contract provides that the broker gives notice at the earliest opportunity and the consumer can dissolve the contract immediately; or
- if, in a contract of indeterminate duration, it provides for the broker to give reasonable notice in advance and the consumer is free to dissolve the contract.

Plain and intelligible language

However, the FSA will review all terms (including Core Terms) of a contract to ensure that it complies with Regulation 7(1) in that it is "expressed in plain, intelligible language".

Terms are open to challenge if they put the consumer at a disadvantage because he or she is

the FSA has identified. Brokers can undertake to amend the unfair term with immediate effect.

From that point, the broker can no longer rely on the unfair term. It should tell its customers the effect the undertaking will have on their contracts. Other brokers should take note of undertakings and change any similar terms accordingly. Undertakings are published on the FSA website. If a firm breaches its undertaking then the FSA can take enforcement action

If a term is unfair, only the unfair term is unenforceable. If possible, the remaining terms in the contract remain valid. In terms of redress to the consumer, the FSA will not consider complaints from individual consumers. That is the function of the Financial Services Ombudsman.



A term will be unfair if (contrary to good faith) it creates significant imbalance in the parties' rights and obligations to the detriment of the consumer

not clear about its meaning, even if its meaning could be provided by a lawyer.

Brokers should review terms to ensure that they are clear, simple and unambiguous, but not with confusing layout, double negatives, small font sizes or illegible quality print.

OFT has made companies reprint contracts in larger print and highlight important terms in bold.

All terms in the contract must satisfy the plain language requirement. If they do not, they will be in breach. Importantly, the Regulations say that if there is any doubt as to a term's meaning, the most favourable to the consumer will apply.

So, what happens if the FSA think a term is unfair?

The FSA will usually express its concerns and invite comment thereafter. If it still thinks the term unfair, it will require an undertaking to stop using the term. If the broker refuses, the FSA can seek an injunction to stop the firm using the term. In practice this has not happened, but if it did it is probable that the court will be asked to decide whether the term was unfair.

An undertaking is a written agreement that the broker will not use or enforce an unfair term

What should brokers do?

It is important brokers ensure their terms are not unfair. In particular, they should:

- review consumer terms of business agreements and associated documents to make sure they are not skewed against the consumer
- print contracts in legible print with large font size
- use plain English, provide clear definitions of key terms, short sentences and sub-headings
- offer consumers the opportunity to read the agreement and any associated documents before signing.

The FSA states that it would "not be proportionate for us to spend resources on cases where the number of consumers likely to be affected is low". This is why it takes a risk-based and proportionate approach to regulation. When deciding whether to regulate an unfair term, it will also consider factors such as the number of consumers that may be affected and the actual or potential harm that may occur.



Hywel Evans is a solicitor at Hugh James



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Why box ticking is not enough

It is time to focus on the real meaning of risk management, stresses **Roger Flaxman**, or both brokers and their clients will lose out

Indifference, laziness, ignorance, naivety, carelessness, arrogance and casual dishonesty.

What do these behaviours have in common? They are all reasons why risk management can be undermined.

Consequently, it is increasingly failing to meet its fitness for purpose and this will begin to have serious implications for insurance brokers, as well as their clients.

Every insurance professional will recognise the cynics' views of the purpose of risk management, namely to appease regulators, satisfy standards of quality assurance, enshrine operating systems and procedures and obtain premium discounts from insurers.

Yet, it was never intended as such and there is an urgent need for the industry to confront this cynicism.

The industry's fears and frustrations in the seemingly interminable soft market are driving the realisation that managing risk really matters in the reduction of cost to the industry in losses and claims.

But there is also a common malaise towards risk management and this must be addressed.

So, what are the implications for brokers?

Insurers may wish to incentivise the benefits of risk management as a means of reducing claims costs and proving to regulators they are exercising good standards of underwriting judgement and fair practice. And this is consistent with the principles-based rules of the Financial Services Authority (FSA).

But insureds will expect the risk management tools recommended to them, or required of them, to be fit for purpose. That is, to reduce the probability and chance of a loss or claim and to reduce the impact of the loss or claim that cannot be avoided.

Neville Miles, managing director of BIBA accredited broker, Lockton, comments: "If risk management fails to do what is intended because it is merely a tick box compliance procedure, then the insurance industry will have a serious credibility problem. Our recommendation now is to take this very seriously."

And Richard Wynn, director of Howden UK, adds: "You can't tick boxes for situations that you don't know exist. Professionals need to take a long, hard look at the critical risk areas in their

business – clients, cash, people and infrastructure – from the top down, in order to understand what risks they face and plan to manage them appropriately."

Moreover, if brokers offer risk management services to their clients that do not meet the clients' presumed benefits and targets, the brokers are exposed to a legal liability. Which, arguably, is a good reason for outsourcing it.

Consequently, as risk management becomes an increasingly important feature of modern insurance practice, brokers should become more familiar with its practical application and limitations, in its various forms.

There are more than 600,000 entries in Google for risk management in the UK listing. Insureds can be forgiven for being overwhelmed for choice and the natural place to come for advice will be their broker.

The ubiquitous tick box procedure designed to prove compliance has caused risk management to become detached from the human factor which is the essential prerequisite to making risk management work.

Removing human awareness of risk has deprived people of the intellectual recognition



Welcome on board: Howden's Tim Coles (left) with BIBA chief executive, Eric Galbraith

Stop press...

BIBA is delighted to announce that Howden, a BIBA member specialising in broker PI, has been appointed to the BIBA Professional Indemnity panel.

Howden is highly experienced in providing market-leading PI protection to the industry and currently advises many UK insurance intermediaries on their PI needs. The appointment to the BIBA panel is testament to Howden's experience, specialist knowledge and excellent service. With a reputation built on

responding to market needs, the team continues to develop and improve the scope of policies, providing brokers with cover that truly reflects today's modern regulatory environment.

Brokers can contact Howden's UK Professional Risks Director, Richard Wynn on **0207 623 3806**, rwynn@howdengroup.com or visit him and his team on stand 12 at the BIBA exhibition 30th April – 2nd May. For full information on the BIBA PI Initiative go to www.biba.org.uk

of the merits and benefits of managing it. Formal risk management therefore becomes a nuisance and is ignored.

This stems from the top. If the senior management of a firm are not risk aware then any amount of risk management will fail to fulfil its intended function.

Risk management is very often sanctioned by the senior management, designed and implemented by outside consultants and thereafter managed by one person. That individual is designated to police compliance in an atmosphere of resentment and indifference from those who consider themselves above the need to comply.

The familiar cry from staff is that they are incentivised to make money and risk management is counter intuitive to that objective. It interferes with their daily business lives and is an insult to their intelligence.

So, what can the broker do?

There is no substitute for first-hand knowledge and experience. If brokers understand the principles of managing risk for their own business they are well on the way to understanding the principles of how to advise a client. After all, a client will surely presume that

their broker knows all about risk and manages their own with skill and expertise.

Understanding the principles

What is important for the broker is to be able to understand the principles so that they can direct their client to an appropriate choice of specialist consultants. No more but no less.

Managing risk in professional service industry businesses such as broking – or indeed the main professional disciplines – is more difficult than managing risk in a business that manufactures or sells goods.

Much of the risk stems from individual skill, experience and judgement of the employees, each of whom have been engaged for their ability to work on their own to earn revenue for the business.

This makes the task of managing risk more complex because the behavioural characteristics mentioned in the opening of this article are dominant in service industry and professional businesses.

In April 2008, BIBA will publish its third brochure from its PI Initiative – *A guide to a broker's management of PI risk*. It will explain the principal dynamics of professional risk and

liability as currently applicable to our industry.

Richard Gledhill, associate director of Towergate, says: "This is a laudable attempt by BIBA to seek to make a difference in this field by approaching the issue from a new perspective which will, hopefully, enable brokers to tackle the problem."

Elephant traps

In particular, the brochure will focus on the elephant traps for those firms who rely solely on FSA compliance as a total quality assurance and risk management programme – it is not.

Recent experience of claims made against brokers is showing how claimants' lawyers are using the ICOBs to identify breaches that are causative of the alleged negligence.

This tactic requires the defending broker to prove there is no breach of FSA compliance and also to prove that the systems and procedures impliedly expected by reason of treating customers fairly and the practical application of Demands and Needs, beyond what is specifically required by the regulations, have been met in full.

BIBA will recommend brokers recognise the difference between managing risk and risk management.

Managing risk is a cultural embodiment of awareness of risk that is cascaded throughout the firm from the top and is a shared day-to-day responsibility of everyone, for their own part.

Risk management is a system and procedure based method of regulating the conduct of the processes that form the fundamental infrastructure of the business.

While an essential part of managing risk, the compliance systems and procedures account for only one quarter of the contribution to effective management of risk in a broker business.

The essential, but frequently missing, human ingredient to managing risk is effective communication.

Professional indemnity insurance lawyers recognise the overwhelming cause of PI claims is breakdown in communication. It can be overcome, but only with a deliberate and concerted effort to do so.

In General Sir Michael Jackson's autobiography, *Soldier*, he uses a quote from wartime leader Major General "Windy" Gale who commanded the 6th Airborne Division. In this, Gale says: "One purpose of communication is to take a thought from one human being's brain and transmit it to the brain of others with the minimum possibility of misunderstanding, confusion or ambiguity".

This could not be a more apposite benchmark for the insurance broker as adviser intermediary between client and insurer.

 **Roger Flaxman is a consulting adviser to BIBA on PI**

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Still on the case

The FSA's investigations into conflicts of interest and in particular, commission disclosure, have not gone away, warns **Vannessa Young**



The FSA may have decided against mandating commission disclosure in the wholesale/commercial insurance market at the end of 2007, but the issue has not disappeared.

The FSA tagged three little words – “at this stage” – to its announcement on commission disclosure, which make a world of difference.

Those words serve as a reminder that the regulator still has residual concerns about how some practices affect transparency and market efficiency. In particular, a lack of transparency in commissions paid to intermediaries which give rise to market imperfections.

So, despite an extensive independent market failure analysis and high level cost benefit analysis, which seem to have taken an inordinate length of time and effort, the industry faces further scrutiny.

The FSA now plans to publish a discussion paper inviting the industry to respond with views on the cost-benefit analysis of mandatory disclosure.

This is likely to take into account questions on wider market efficiency, including the potential benefits of standardisation. BIBA will be submitting a formal response to this request for further information. We strongly recommend that members with a point of view on the subject send their comments directly to the FSA.

The FSA will be carrying out thematic work regarding conflicts of interest in the coming

months. This will explore the extent and nature of the conflicts of interest arising from the remuneration and contractual arrangements between insurers and brokers and how they are managed.

It will explore ways in which it can make commercial customers more aware of the value of receiving commission information from their intermediary.

BIBA is assisting members and their customers with regards to conflict management and greater transparency at the point of sale. We advocate a three pronged approach.

First, members should be recognising and managing the potential conflict of interest that arises whenever they receive a commission and can evidence this is effectively managed.

In 2005, we published a guidance notice for members on how to identify and manage conflicts of interest and a year later we published further guidance on how intermediaries can design and implement their own internal conflicts management programme. Both papers are on the BIBA website.

Second, members need appropriate systems in place to ensure whenever a commercial customer asks for details of a broker's remuneration, they disclose all earnings, including profit shares and volume overrides.

BIBA recently published a reminder for members about what such a process might look like, which is on the website.

Third, if members have not already done so, they change their TOBA with their commercial customers to include the BIBA wording on greater transparency.

This promises the commercial customer that they will be reminded annually of their right to ask about the intermediary's remuneration, and that the customer can ask about this at any time.

The BIBA TOBA wording reads:
Prior to the conclusion of each insurance contract, or upon renewal, we will remind you of your right to be advised of the level of commission which we receive from underwriters.

You are entitled, at any time, to request information regarding any commission which we may have received as a result of placing your insurance business.

We believe if our members address each of these three issues, then the FSA's rules and high level principles are being complied with.

These issues are not confined to the UK. The European Commission's review of the Insurance Mediation Directive in 2008/09 is likely to cover this subject.

BIPAR (the pan-European insurance intermediary representative body) invited BIBA to its meeting in Madrid in March to give a presentation to their members about how smaller intermediaries in the UK are identifying and managing potential conflicts of interest.

BIBA is working hard on behalf of its members to convince European counterparts that the UK approach to conflicts of interest is one that should be adopted on a pan-European basis.

 **Vannessa Young is BIBA's compliance co-ordinator**

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Our in-house technical and regulatory specialists are available to deal with members' queries, so readers are invited to try them out

The numbers game

Q: Do I need to keep collating my firm's contract certainty figures and submitting them for central measurement after December 2007?

A: In a nutshell, yes and no. Yes, you will need to continue to collect the figures to demonstrate your firm's individual contract certainty performance, but no, you will not have to carry on presenting data for central measurement.

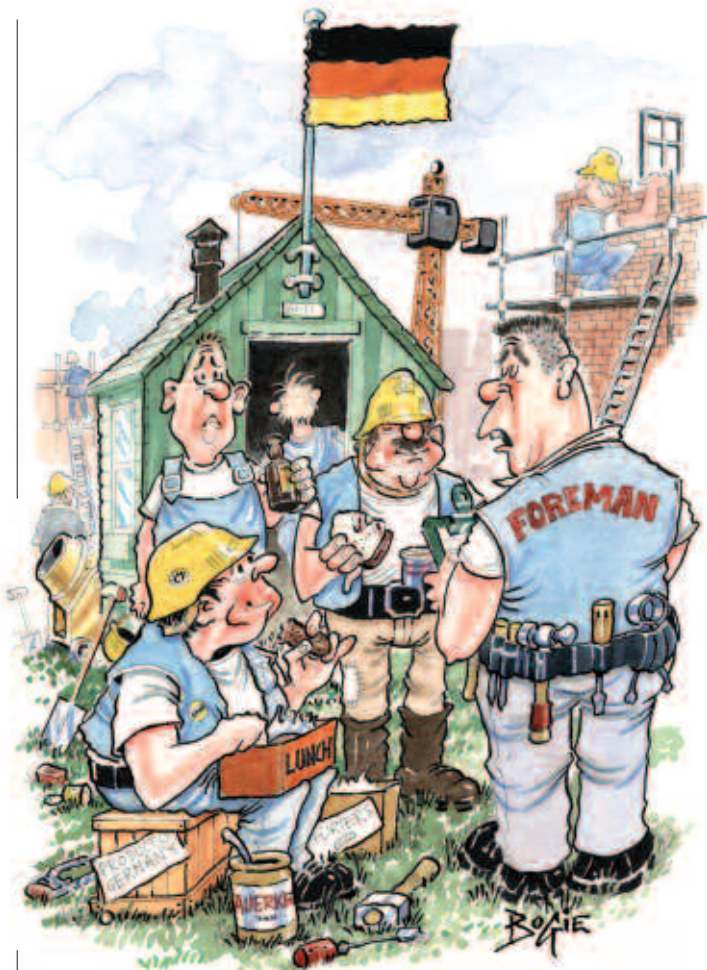
This change is down to the insurance industry being able to prove a continuation of the contract certainty momentum built up in 2006. The FSA has consequently agreed to the Contract Certainty Steering Committee's proposal that the industry need no longer collate this information centrally once the figures for December 2007 have been gathered. The regulator has agreed that the committee stands down once it has successfully fulfilled its purpose.

However, the FSA has asked that firms are clear on the following:

- firms should continue to comply with the contract certainty code of practice
- firms should continue to demonstrate individual performance in line with the code
- the good industry progress on legacy issues should continue.

The FSA is likely to ask to see contract certainty data when they visit so it is imperative firms continue to collect and record this information. Members must not become complacent on contract certainty, as the FSA has warned firms found not to be meeting the required standards face disciplinary action.

BIBA is still collecting data for the 2007 year end and members are requested to submit this.



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Home and abroad

Q: Is there a requirement for a foreign company to arrange UK employers' liability cover for workers who are in the UK on a temporary basis?

This has been raised by German contractors who are being told by the main contractors they need this cover if they carry out work in the UK, even for periods of just a few weeks. These companies have had difficulty in obtaining UK employers'

liability cover from either their local German insurer, or from the UK market.

A: The feeling is employers' liability cover is required regardless of the employee's nationality. The point of compulsory employers' liability cover is to ensure employees who are injured while employed in the UK (regardless of nationality) receive proper compensation for any negligently-caused harm. Any company that fails to take out insurance will have to pay damages out of its own pocket (ie

uninsured risk), but that is of little benefit to the injured claimant if the company is asset worthless or where there are jurisdictional issues.


The view is that Section 1 (2)(c) of the 1988 Compulsory Insurance Regulations applies in that a "relevant employee" includes non-UK residents who are employed in this country for a continuous period of not less than 14 days.

Furthermore, the lack of cover for the 14-day period may fall foul of the main contractor's contract with the client, namely to ensure all employees on site are covered by employers' liability insurance. We suspect the contract, rather than the law, will require employers' liability cover from day one.

More on subcontractors

Q: I saw you ran a reply to a query on construction industry subcontractors in the Autumn 2007 issue stating how they are now meant to be verified as being independent bodies with their own public liability insurance – or they should be paid via PAYE. I am still getting a lot of clients wanting more information. Can you help?

A: There are some detailed points and we appreciate there is not enough space here to include them. So, we have compiled an in-depth briefing. Please visit the Technical Advice section of the BIBA website – and ask us if you still need further clarification.

 **Do you have a question?**
You can email these to:

Regulation questions:


whites@biba.org.uk

Technical questions:

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foulshams@biba.org.uk /

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Our identity reflects this approach – everything you will experience with IGI has a different perspective that you just won't see elsewhere.

IGI's residential property owners' cover includes:

-  Up to £2 million sum insured
-  Building and contents cover for all tenant types
-  Up to 20% of buildings sum, insured Loss of rent
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-  Optional policy enhancements, including:
 - accidental damage
 - employers' liability
 - terrorism
 - £5 million property owners' liability
 - Enhanced legal protection

It is also possible to transact business using our web based facility at www.igionline.co.uk. This provides a fast, flexible and efficient solution from quotation stage through to policy issue.

For insurance with a different perspective contact:

**The Sales Executive Team on: 07932 153779
or 07920 452773**

or come and see us on **Stand N11 at the 2008 BIBA Conference & Exhibition.**



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