

May 19, 2009

CONFIDENTIAL

REPORT BY THE INDEPENDENT REVIEWER

TO THE BOARD OF DIRECTORS

THE GENERAL INSURANCE OMBUDSERVICE

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THE INDEPENDENT REVIEWER

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The Board of Directors

The General Insurance Ombudservice

Report of the Independent Consultant

1. EXECUTIVE SUMMARY

We have been retained by the Board of GIO to carry out a review of the type contemplated by Guideline 7 of the FSON Framework and Directors' Guidelines. The review commenced on or about February 27 and was carried out over a broken period between that date and May 8, 2009.

Guideline 7 specifies that the independent review "should assess the extent to which the operations of the OmbudService (a) have achieved its public interest purpose, having reference among other things to the Guidelines of the DR Committee, and (b) the working protocols and standards of the Board of Directors of the OmbudService. Where the evaluator concludes that shortfalls exist, the evaluator should make recommendations for improvement."

Appendix 1 describes the activities carried out during the review. In summary, we looked at GIO corporate files and the minutes of directors' meetings over the past two years, reviewed GIO case files, met with and had extensive discussions with the GIO Executive Director, met with and had discussions with Consumer Service Officers, met with insurance regulators for Alberta and Ontario, met with the GIO Chair and had telephone contact with several GIO long-serving directors. We also had discussions with the Financial Consumer Agency of Canada (FCAC).

Based on our review, we are fully satisfied that GIO is achieving its public interest purpose and is providing a high quality ombudservice in accordance with the Guidelines of the DR Committee and the working protocols and standards of the Board of Directors. We are also of the view that GIO is maintaining high standards of corporate governance, to the overall benefit of the organization.

Notwithstanding these over-riding comments, there are a couple of areas that we are drawing to the attention of the board for consideration. The first is with regard to complainants from Quebec, who are referred to a consumer information centre in that province. The situation is a bit complicated and we realize that the board is aware of the issue and working to address it. Nevertheless, we put forward several possible options for consideration. A second area has to do with the treatment of third party, i.e. liability, claims, where the complainant is not a policyholder of the insurer which is the subject of the complaint. There may be valid reasons for the exclusion of this area of complaints but if that's the case, we think the GIO Terms of Reference, the web site and other material should more clearly spell out that this area does not fall within GIO's mandate. On the other hand, we also suggest that it could be beneficial to GIO, the industry and the public, to include rather than exclude this area of potential GIO activity. Both of these issues are discussed in more detail in the body of this report, below.

In Sections 3 and 4 of this report we set out a number of less significant comments and suggestions for consideration by the board.

In Appendix 2 we include a summary of the main points from the report that are for the attention of the GIO Board.

2. STANDARDS OF SERVICE AND ETHICAL BEHAVIOUR

The main objective of this report, and of our investigations carried out as part of this project, is to confirm or otherwise that GIO is delivering services to Canadians in a fair and impartial manner. Any insurance complaint handling system that relies only on the insurers and/or an insurance industry trade association will be perceived by the public as having an inherent conflict of interest. GIO was established at the behest of the federal government to make sure that there will be no conflict of interest and that Canadians will have access to fair and impartial investigation of complaints arising from the actions of their insurers. (There are some areas of exemption with regard to GIO's responsibilities and these are discussed in more detail below.) As already mentioned, based on our independent review we have no qualms in stating that the services are in fact, delivered in a fair and impartial manner.

In keeping with its broadly defined mandate the Board of GIO has committed to meeting a number of specific objectives with regard to standards of service and ethical behaviour. These objectives are listed below, along with the bold face, italicized comments of the independent reviewer in respect of each area:

Accessibility – Providing convenient ease of contact for consumers to express and pursue their concerns. Consumers wishing to access services may contact GIO in a variety of ways, including the National toll-free telephone number 1-877-225-0446, mail, electronic mail, facsimile, and through the GIO web site, www.giocanada.org. Consumer Service Officers assist consumers in either English or French. ***This objective is currently met. Over time it would probably be beneficial to increase the extent to which services can be provided in French. At present, French language calls to the Western Canada office are referred to Toronto. Toronto has one CSO who speaks fluent French.***

Timeliness – Responding promptly to consumer inquiries and complaints. In the case of fax or e-mail messages, we strive to get back to the complainant within one business day. In most cases, our telephones are answered directly. When that is not possible, we will respond to messages within one business day. For all situations, GIO will strive to keep the consumer informed at all times of the status of their concern. ***As far as we can see, this objective is currently met. In our review of case files we found no situations where it appeared that there had been any significant delays in responding to complainants.***

Courtesy – Always treating consumers with respect, civility and politeness. ***Objective appears to be met. Every aspect of our review seemed to confirm that consumers are treated with respect, civility and politeness.***

Clarity – Using simple, easy-to-understand language in all our communications, delivered in the consumer’s choice of English or French. ***Objective appears to be met.***

Accuracy – Always providing consumers with information that is accurate. If we don’t fully understand any aspect of the issue, we will ask the appropriate party for clarification. ***Objective appears to be met.***

Fairness & Impartiality – Approaching every interaction with integrity and objectivity, dealing with each case on the basis of due diligence and factual information. ***Objective appears to be met. This is a critical factor and we looked very closely for any evidence to the contrary. None was found.***

Consistency – Treating similar cases in a similar fashion. We learn from each experience and use that knowledge to refine and enhance the perspective we can bring to recurring issues. ***Objective appears to be met.***

Knowledge – Demonstrating an understanding of the product and providing accurate information and guidance on the complaint resolution protocol. ***Objective appears to be met. We were impressed with the degree of knowledge possessed by the CSO’s and GIO management.***

Privacy/Confidentiality – Ensuring that personal/proprietary information is kept absolutely private and confidential. Our employees are bound by rigorous confidentiality standards and agreements as defined in our privacy policy. ***Objective appears to be met.***

Independence & Objectivity – Ensuring that GIO is independent and separate from government and industry, with its own Board of Directors, whose members represent a range of professional backgrounds, the majority coming from outside the insurance industry. ***Objective appears to be met. This is another critical objective and was one of the foci for our investigations. By every measure, we found consumer advice and actions to be independent.***

In summary, as a result of our investigations, we are fully satisfied on all of the above points. We were well impressed by the extent to which the CSO's are sensitive to the emotional state of mind that may characterize some consumers when they have experienced losses which may or may not be covered by their insurance policies. The CSO's appear to be effective in providing an understanding and appropriately sympathetic treatment of insurance consumer concerns while at the same time offering factual advice that will assist them in resolving their insurance related issues. We are also satisfied that the Board of Directors is following high standards of corporate governance. (We have some relatively minor suggestions for consideration later in this report.)

3. GIO AND THE MANDATE TO SERVE CANADIANS

A. THE SITUATION WITH QUEBEC COMPLAINANTS

The Mission Statement of the GIO is as follows:

The General Insurance OmbudService mission is to provide consumers of car, home and business insurance in Canada with a cost-free, independent and impartial process to resolve their complaints.

As an independent reviewer it is difficult not to take note of the divergence between this Canada-wide mandate for the organization, and the fact that complaints from Quebec policyholders are not actually dealt with by GIO, instead being passed to an insurance consumer information centre in Quebec, which is jointly operated by the Groupement des assureurs automobiles (GAA), an association of all automobile insurers in the province, and the Insurance Bureau of Canada (IBC). In addition, the Quebec financial regulator, Autorité des marchés financiers (AMF) also provides a property/casualty insurance complaint handling service for Quebec based consumers. Thus P/C insurance complainants in Quebec have a number of options for assistance, probably more so than consumers in any other province.

The issue therefore is that the mandate of GIO is clearly Canada-wide in application, whereas the fact is that the organization does not handle Quebec based complaints. GIO is aware of this anomaly and to deal with it has developed a strategy encompassing the following three areas:

- i. By working with GAA/IBC in Quebec there can be a greater harmonization of complaint handling practices of the two organizations. This in turn will help to support point (ii) below.
- ii. Key complaint data generated by the GAA/IBC office in Quebec, which until now has not been included in the GIO complaint handling data base, might be able to be imported into the GIO reporting system. In other words, the lack of a GIO presence in Quebec has given rise to a corresponding gap in the GIO complaint data base, but this could be reduced in future by obtaining complaint data from the GAA/IBC complaint handling centre in the province.
- iii. GIO will work to increase its visibility with AMF, which should be helpful in gradually establishing more of a presence in Quebec. Such discussions will likely be more meaningful if it can be demonstrated that GIO is already in the process of harmonizing its procedures and statistical reporting with GAA/IBC in Quebec.
- iv. GIO could consider the possibility of appointing a GAA Consumer Information Centre officer as the GIO officer in Quebec (and reimburse GAA for the related staff costs) and appoint a Quebec-based Senior Adjudicative Officer. As GAA is considered a Self Regulatory Organization, this may meet the independence requirements set out by the federal legislation.

There are three additional options that we put forward for consideration by GIO:

- i. GIO could expand the capacity of the Toronto office to deal with complaints from Quebec policyholders. We understand that one of the Consumer Service Officers, Caroline Smith, is bilingual, so it might be possible to start handling Quebec based complaints right away. The office seems to have plenty of space to accommodate an additional Consumer Service Officer, so a hiring process could get underway and perhaps within a few months it would be possible to begin training of a new, French speaking Officer. Over a period of a year or two it would probably be possible to build up sufficient capacity to deal with all complaints received from Quebec instead of referring them to the GAA/IBC consumer centre in Quebec. This would have the advantage of fully synchronizing the GIO mandate, the information on the GIO web site and the information on the IBC web site – each of which indicates that GIO is responding to consumer complaints from across the country.

- ii. A second option would be to actually open an office in Montreal that focuses particularly on Quebec complaints (and perhaps French language complaints from other provinces as well), in the same way as the Edmonton office handles complaints emanating from Western Canada. A downside to this approach is that there would then be three organizations actively working in Quebec to handle P/C related complaints for Quebec: GIO, the GAA/IBC Consumer Centre and the Quebec government through AMF. As well, compared to the option mentioned above, this would be a considerably more costly approach because of the duplication of general expenses such as rent and other overhead.

- iii. Finally, GIO could enter into discussions with AMF to see if AMF would entertain the possibility of handling all referrals of Quebec based complaints from GIO. We are sure that the Government of Quebec would meet the independence and other requirements of the 2001 agreement with the federal government. This approach would also be more in line with the GIO mandate and Mission Statement as an independent ombudservice. In addition, it would be more cost efficient than dealing with the complaints directly, either by an expansion of the Toronto office or by establishing a new office in Quebec.

All in all we think GIO's approach of working over a period of time to somewhat expand its Quebec involvement, without trying to duplicate services that already seem to be well provided, is a good course to follow. The concept of appointing a GIO representative to the GAA/IBC Consumer Information Centre may be a particularly good option. In any case, we think all options should be considered in seeking a comprehensive solution to what is currently an awkward situation.

Also, as mentioned above, the IBC web sites refer consumers to GIO, without mentioning the fact that Quebec based consumers will not actually be dealt with by GIO. Dealing with the primary issue of Quebec complainants will probably also address this issue. In the meantime, however, we suggest that GIO ask IBC to modify its web site so that Quebec complainants are referred directly to the GAA/IBC Consumer Centre.

An additional point, again somewhat related to the matters discussed above, is with regard to GIO's capacity to handle French language complaints. As mentioned above, GIO does have a bilingual CSO and so at the present time the situation may be satisfactory. However, one of the objectives of GIO, and a matter also dealt with in this report, is the need for GIO to increase its public profile. We believe that GIO will be successful and that over time, considerably more complaints will have to be dealt with as a result. Therefore we believe that in the not too distant future, GIO should be working to increase its capacity to handle French language complaints. Depending on the actions taken with regard to handling Quebec based complaints, complaint handling capacity in the French language might automatically increase significantly. If that doesn't happen, we think that within the next year or so GIO will likely find the need to

hire and begin to train an additional fluently French speaking individual to augment its complaint handling service.

B. THE SITUATION WITH LIABILITY COMPLAINANTS

The GIO Terms of Reference for Dispute Resolution contain the following definitions:

“Complainant” means an individual Consumer of a Member or its representative making a Complaint to the GIO and includes the authorized representative(s) of the Consumer, such as a personal representative, guardian, trustee or executor;

“Complaint” means a complaint about the provision within Canada of a Property and Casualty Insurance Service and/or Product provided by a Member or its representative;

“Property and Casualty Insurance Service and/or Product” means automobile, home or business insurance services and/or products;

Having regard for these definitions, GIO takes the view that its mandate excludes third party claimants because any such complainant is not a “policyholder” of the member.

This is not an unreasonable interpretation. On the other hand it seems to us that the above wording is also capable of being more broadly interpreted. For example, suppose a pedestrian is injured by a liability policyholder of a member company. The pedestrian does not have a car nor does he or she have any other insurance policy. Clearly then, the pedestrian is not a policyholder of a member company. However, he or she might be considered to be a “consumer” of a member company, which is included in the definition of “Complainant”. As well, the person’s complaint could be interpreted as “a complaint about the provision within Canada of a Property and Casualty Insurance Service . . . provided by a Member”. The definition of “Property and Casualty Insurance Service and/or Product” makes reference to Automobile Insurance, which in turn, includes “Automobile Liability Insurance” as part of the legal definition.

We also note that on the GIO web site under the heading “Exceptions / Exclusions to GIO's Services”, there is the following indication:

While GIO specializes in resolving consumer complaints with home, auto and business insurance providers, there are certain situations in which we cannot provide advice or mediation. We are unable to assist with:

- *Complaints about the cost of insurance. In Alberta only, GIO helps policyholders resolve complaints about auto premiums, in accordance with provincial legislation*
- *Complaints about the availability of insurance*
- *Issues that are (or have been) before the courts or another formal dispute resolution process*
- *Situations that deal with settlement procedures required by law, or that fall under the regulatory authority of another organization*
- *Instances that involve information contained in databases held by others outside the company*
- *Proposals for reform of laws, regulations or public policy*

So in our view, there is no clear indication that Liability Claims (other than Statutory Accident Benefit claims in Ontario because they deal with settlement procedures required by law) are not subject to GIO review.

We also note Guideline 3 of the FSON Framework for Collaboration and Article IV, Section 8, of the GIO Terms of Reference, which are quoted, respectively, below:

As an operating principle, the OmbudService should adopt a generous interpretation of its terms of reference so that, if doubt exists as to jurisdiction in a particular case, the doubt would be resolved in favour of dealing with the complaint rather than rejecting it.

The Complainant should be a person who is directly affected by the decision of the Member that is the subject matter of the Complaint.

Each of the above directives seems to us to point towards inclusion rather than exclusion of third party complaints.

In any case, and regardless of the precise interpretation that can be placed on the wording of the Terms of Reference and other GIO documentation, it seems to us that there are several reasons why it might be beneficial for GIO to adopt a broader view of its mandate, to include most Liability Claims. These are listed below:

- i. Suppose in the injured pedestrian example cited above, the circumstances are that the member company has treated the third party in a manifestly unfair manner. Suppose further that that situation were to be picked up by the media, and it turned out that GIO had indicated that it could not be of service. Our view is that neither the media nor the public at large would understand the fine distinction between a direct policyholder

complainant and a third party complainant, with the message to the public being simply that GIO did not act. Thus it seems to us that there is at least a slight possibility of reputational damage to GIO.

- ii. Continuing with the above example, one of the reasons for requiring that every insurer have an internal complaint process is to ensure that its senior management will be aware of what might be inappropriate behavior by some of its personnel or representatives. If GIO recommends that a settlement be made, the company is on notice that an objective and knowledgeable third party has reviewed the case and concluded that the company's position is weak. But if in the injured pedestrian example above, GIO does not contact the insurance company, the insurer's senior management will not have had the benefit of the GIO assessment and therefore may not be aware of an important developing issue. Thus we also see the possibility of reputational damage to a GIO member company.

We also recognize that if the broader mandate were to be accepted, GIO would have to be careful not to prejudice the position of the insurer in any possible legal actions that might later be initiated. There should be a discussion between IBC and GIO to work out some carefully crafted guidelines for use by the GIO consumer service officers. For example, the Terms of Reference, web site and other information sources could indicate that in the case of liability related complaints the role of GIO is:

- i. to review the company's actions as advised by the complainant;
- ii. if necessary, to contact the insurer's ombudsman to make sure that the company is aware of the complaint and has reviewed the complaint with the appropriate officers of the company;
- iii. to follow up with the insurer if there appear to be any misunderstandings with regard to the facts of the case; and
- iv. to advise the complainant whether or not the insurer is prepared to reconsider its position. If not, GIO would advise the complainant that there is nothing more that GIO can do on the complainant's behalf.

In the case of Liability related complaints, it might be appropriate to require that some of these steps be confirmed in writing rather than relying on verbal conversations.

A process such as this would have the advantage of making sure that the insurance company is fully aware of the complaint, is in possession of all relevant facts and is satisfied with its

decision. It would also have the benefit of enabling GIO to report that it provides a seamless service for virtually all property/casualty insurance related complaints.

Whether GIO decides that its mandate *should* include third party claimants or that it *should not* include such claimants, we think that the Terms of Reference, the GIO web site and other references should make the position more clear because as mentioned, the existing references are not, in our view, definitive. For example, if it is decided that third party claimants should not be part of the GIO client base, the web site could indicate something like: “If you have a complaint with regard to the possible liability of an insurer in respect of damage caused to you by that insurer’s policyholder, then GIO regrets that it cannot be of assistance. Such matters must be resolved through the normal exercise of due process.” This would make it clear to potential claimants that GIO can have no roll in their claim settlement process. Incidentally, as GIO is successful in raising its profile with Canada’s insuring public, we think it will become increasingly important for the organization to clearly indicate on its web site and in other material, precisely what situations may be eligible for GIO involvement.

4. REVIEW OF OPERATIONS

In the course of our review we had the opportunity to see a broad cross-section of GIO business practices and procedures, corporate governance procedures, IT system protocols and so on. Although these are not necessarily directly related to our mandate, we set out below some points and observations for the information of management and the board:

- A. Quality of Case File Information.** In looking at the content of the case files over the past several years there seems to be a clear improvement in the quality and completeness of the notes and the comments being provided to consumers. This trend was in particular evidence over the past year. We congratulate GIO for its training activities and the concerned mentoring of its staff members.
- B. Internal Controls – IT.** The on-line file system is excellent and we think it must provide GIO with huge benefits in terms of efficiency and probably effectiveness as well. Initially we were concerned that when cases were first reviewed, if the decision was to treat the matter as an enquiry rather than a complaint, no detailed reason was provided to support the decision. However, our concern was based on a review of older files. We later learned that for more recent case activity, the system includes a description of the reason for treating the matter as an enquiry rather than a case. We are not sure, however, whether this enquiry information is included in the GIO statistical data base. If not, such information could be useful in helping to identify marketplace trends that are indicative of important emerging systemic issues. GIO would want to deal with any such issues in accordance with Article 44 of the Terms of Reference. (See also below under the heading “Meeting With FSCO”.)

- C. Internal Controls – IT.** When a file has been closed it seems to us that it should be locked so that the notes and any other material would only be able to be amended with the approval of the Executive Director. At the present time this does not seem to occur. In fact we inadvertently “ticked boxes” on a couple of occasions as we reviewed cases. We made sure we “unticked” them before logging off but it was a bit disturbing to think that we may have been able to change something in a file, seemingly without the knowledge of GIO senior management. (It is possible that there already controls in place to ensure that closed files are not amended, but if so, it was not apparent to us.)
- D. Personnel Security.** In today’s world it seems we read with increasing frequency about individuals who have run amuck after becoming obsessed with some grievance or other. Having formerly been involved with the resolution of insurance complaints we are aware that on rare occasions complainants may become extremely agitated if their complaint cannot be settled in the way they believe should occur. In the Edmonton office in particular, we were a bit concerned to notice that there is no “eye hole” on the outer door to the office, so the two CSO’s who are stationed there have no way of assessing the individual before they are admitted to the inner office. In offices these days it is common to have a glass partition with an intercom and buzzer system so that those within the office can assess the visitor before they are permitted to enter. (Although the Edmonton office is located next to a police station, which hopefully should tend to remind GIO visitors that unruly behavior is not acceptable!) We mentioned this matter prior to completing our draft report and it is gratifying to learn that these situations have already been dealt with in a fully satisfactory manner.
- E. Corporate Governance.** We think it would be beneficial to develop a questionnaire to provide board members with the ability to rate the board’s performance and its corporate governance practices on an anonymous basis, including making suggestions for improvement. The questionnaire would be delivered directly to the Chair, who could then arrange to discuss points with the whole Board. It might also be appropriate for the Chair to volunteer to hold in camera sessions with any directors who wish to provide additional input on a personal basis.
- F. Corporate Governance.** We did not see any conflict of interest guidelines for board members. We suggest that the board adopt such guidelines and that they be included in the Directors’ Binder for reference purposes. We do note, however, that GIO by-laws have excellent provisions to ensure the independence of directors and this will also tend to minimize the possibility of conflicts of interest. However, conflicts of interest could still conceivably arise, for example, in a situation where a Board member has a complaint against an insurance company.
- G. Client Satisfaction.** In the course of our review we noted that there does not seem to be a way for clients to convey their degree of satisfaction with GIO assistance. We

subsequently learned that a client satisfaction form has been developed and that this form is sent out by the CSO for completion by the consumer. This will be beneficial but from the perspective of an independent reviewer, we think it would be better if there could be a more neutral delivery mechanism. With CSO delivery of the form it is possible that, consciously or unconsciously, there could be a bias towards offering the form to those who seem to be happy with the GIO process, but not offering the form to those who are obviously disgruntled with the process. We are sure that board members have experience with system generated client satisfaction forms, for example, when you download information, buy a product or otherwise have contact with a web site and then later receive an email with an attached client satisfaction form for completion and electronic return. We think some sort of automated process would have the advantage of providing GIO with what would definitely be unbiased statistics in this area.

H. GIO Public Profile. As will be noted below, FSCO had a comment on this point. We are aware that the Executive Director has a full slate of presentations scheduled with brokerage conventions across the country and that these presentations will raise the GIO profile with the brokerage community. There are several other possible courses of action that occur to us, which we think could complement the brokerage exposure:

- Make contact with the Canadian Association of Direct Insurers (CADRI) with a view to making a presentation or otherwise ensuring that CADRI members are well aware of GIO and its role. CADRI members constitute a large percentage of the non-brokerage insurance marketplace and the organization holds frequent meetings in the Toronto area. Policyholders of direct insurers might have a particular need of GIO services because they do not have a broker to provide advice. The contact person for CADRI is Mr. Francois Boulanger of RBC Insurance. Mr. Boulanger's email address is francois.boulanger@rbc.com. (Some members of CADRI are bank owned and we understand that in such cases, it may be acceptable for insurance complainants to be referred to the bank's ombudservice.)
- We were pleased to note the wide-ranging backgrounds and geographical representation of the independent board members, which can only be to the benefit of GIO. It may already be happening but we would like to reinforce the notion that individual directors are ambassadors for the GIO organization and should take every opportunity to use their high profiles in other areas to help to raise the profile of GIO as an organization. Such actions would effectively supplement the specific actions of the Chair and Executive Director in this area.
- In the course of our review we looked at more than 60 insurer web sites to see what they said about making complaints and about GIO in particular. We found quite a diversity of approaches. To generalize, we found that large, well known

insurers typically (but not always) have quite fulsome disclosure about the making of complaints, describing the role of the internal ombudsman, how their ombudsman is to be contacted, the role of a final position letter, the role of GIO and finally, a link to the GIO web site. We would term this as “best practice”. At the same time, there were a significant number of insurer web sites where there was mention of the procedure for making a complaint but no specific reference to GIO. However, on the far side of the spectrum, we noted that for a number of insurers, the web sites contained no information at all about the making of complaints and of course in such cases there was no reference to GIO. In light of this diversity, we think it would be worthwhile for GIO to send a notice to every member, including an actual example of what GIO would consider to be best practice in this area. It is easy to find examples on industry leader web sites that use pretty standard language, so a generic wording could quickly be formulated as a “best practice” template for reference by GIO members.

- I. **Consumer Education:** The Organization for Economic and Cultural Development has indicated that it’s initiating a major program in OECD countries to enhance consumer understanding of financial sector products, including general insurance. This action is motivated by research showing that an important factor underlying the current international financial crisis is a generally low level of consumer understanding with regard to financial products and transactions. The OECD and other international agencies are going to be promoting the adoption of consumer financial education programs in most G20 countries. Consumer education is not an area that is currently dealt with in the GIO mandate, but it strikes us that the first line of defense in reducing the frequency of insurance related complaints , would be to raise the standards of awareness with regard to insurance contracts and transactions. In mentioning this our perspective is (1) that the OECD conclusions are almost certainly valid and Canadians would benefit by having a better understanding of insurance products, (2) it might be more appropriate for an independent entity such as GIO to take on this challenge as opposed to the industry trade association and (3) that if GIO wished to expand the scope of its activities, this might be a productive area to consider. Any such action would likely best be coordinated with the other financial sector ombudservices. However, even on its own, GIO might wish to add a section to its web site that could provide insurance consumer education tips and the answers to frequently asked questions.

5. MEETINGS WITH PROVINCIAL REGULATORS AND FCAC

Michelle Li and Lawrie Savage met with the complaint handling specialists at the Alberta Treasury Department and also at the Financial Services Commission of Ontario. The former group was headed by Mr. Arthur Hagan and the latter group by Mr. Anatol Monid. **In each case we were advised that in the course of carrying out their responsibilities with respect to the handling of complaints from the public, these government agencies have found no reason to**

be concerned about the independence of GIO or indeed about any other aspects of its operations. Lawrie Savage also communicated with the Commissioner and another senior officer at FCAC. **FCAC is not aware of anything that would indicate that GIO is operating in anything other than a fair and independent manner nor are there any other GIO related matters that are of concern to FCAC .**

A. FSCO

We were advised by the FSCO officers that in general, when their complaint specialists are reviewing situations that have been brought to their attention, they are looking for potential violations of the Ontario Insurance Act or Regulations. In cases where no statutory violation appears to be involved, they refer the complainant to GIO. They made the point at our meeting that if any significant proportion of those who were referred to GIO were not satisfied with the service they received, they would likely go back to FSCO to raise their complaint again. However they appear to have received virtually no such complaints – so they conclude that GIO must be doing a fully satisfactory job.

In the course of our discussions they did make the following two points which we think are worth bringing to the attention of the GIO board:

First, they would like to receive summary statistics on GIO complaints (not at a level of detail that would identify the complainants), because they believe that there could be important systemic information and trends that FSCO should be aware of from a public policy perspective. In addition, we presume that if they had statistics for individual insurers, they would use those statistics to see whether particular companies appear to have disproportionate levels of complaints. If so, they would likely want to focus their market conduct regulatory activities on those particular insurers to see if improvements could be initiated. We can appreciate that this may be problematic from a GIO perspective because GIO is not intended to have a regulatory role. On the other hand, it could be argued that increased focus by the regulators on any insurers that seem to be responsible for a disproportionate number of complaints, would ultimately help to reduce complaints and therefore be beneficial to insurance consumers, in keeping with GIO's mandate.

FSCO also mentioned that they believe GIO should capture statistics with regard to enquiries, not just for instances where case files are opened. Again this is because important systemic information might be revealed by trends in enquiries. They mentioned that the FSCO complaint information system and statistical data base does include enquiries as well as cases.

These days, regulators are under pressure to identify risks in the environment and to move proactively to reduce risks if they are becoming too high. No doubt FSCO is responding to this pressure by looking for additional market information that could be helpful to its risk assessment process.

As a final point from FSCO, Mr. Monid expressed the view that GIO should increase its efforts to raise its profile as in FSCO's view, relatively few insurance consumers seem to be aware of the organization. (In this regard, please also refer to Section 4H, above.)

Mr. Monid said that he would canvass the FSCO CSO's to find out if they have any additional information that might be relevant to our enquiries. Rather than wait for any further comments that might be forthcoming, we are completing our report now for submission to GIO. If any important information becomes available later on, we will update the report and re-file with GIO.

B. ALBERTA

The Alberta regulators had few specific comments, other than to indicate they are content with GIO's operations and to indicate that GIO does contact Alberta Treasury as required to ensure that there is a correct understanding of all Alberta insurance market rules. This is much appreciated by Alberta. It is interesting to note that Alberta appears to provide complaint services to all who contact their office, rather than following the FSCO approach of referring to GIO all contacts other than those where there may have been non-compliance with the law. This might be an area for future attention by GIO, i.e. attempting to develop greater harmonization among regulators with regard to the inter-relationship between the regulator and GIO.

We don't know if GIO has been making presentations at CCIR (Canadian Council of Insurance Regulators) meetings but this might be an avenue by which GIO could encourage all provinces to adopt consistent approaches with regard to the coordination between GIO and the provincial authorities. Closer interaction with the regulators could also help to meet the objective of increasing GIO's public awareness because the regulators may raise the GIO profile on their web sites or take other actions that will have the same effect.

C. FINANCIAL CONSUMER AGENCY OF CANADA

We exchanged detailed emails with Ms. Ursula Menke, the FCAC Commissioner, and then had a telephone conversation with Mr. John Rossi, Director of the Compliance and Enforcement Branch of FCAC. First of all, Ms. Menke confirmed that no evidence has come to her attention that would suggest that GIO is operating in anything other than a fair and independent manner, or that it is not providing helpful information to claimants.

Mr. Rossi subsequently advised by telephone that FCAC is not concerned about any other issues involving GIO, including the Quebec/IBC situation and the third party claimant situation. With regard to the former, Quebec has officially nominated AMF as the source of consumer information in respect of insurance consumer complaints, which from an FCAC perspective means that GIO operations are not viewed as being critical within that province. FCAC also

takes the view that complaints about third party claims would not necessarily need to be handled by GIO.

6. CONCLUSION

In the view of the undersigned, GIO is operating in an independent and fair manner, is providing consumers with a first class system of property/casualty insurance complaint investigation and, in conjunction with provincial and other complaint investigation agencies, is helping to ensure that consumers will be treated fairly by all member companies.

Respectfully submitted,

Lawrie Savage

APPENDIX 1 – MAIN ACTIVITIES DURING THE PROJECT

In the course of the review we have carried out the following activities:

- Telephone meetings with several of the longer serving GIO directors plus in-person meeting with Lea Algar, GIO Chair.
- Meetings and discussions with Brian Maltman, GIO Executive Director.
- Face-to-face discussions with the Consumer Service Officers in both Toronto and Edmonton.
- Courtesy of an on-line hook-up arranged by Brian Maltman, we have had remote access to both GIO Head Office files and GIO Case Files. Using this facility we have:
 - Reviewed a sample of on-line files for GIO Head Office. Most of the files accessed were in the Board of Directors folder, as follows: 2007 Process Review Stat Plan; Director's Binder; Mission Statement; Minutes and Special Meetings. Other files reviewed were in the Strategic Planning folder and Terms of Reference folder.
 - Minutes of all Board meetings for 2007 and 2008 were reviewed.
- Reviewed approximately 80 GIO case files, being 20 files selected at random for each of the current CSO's over the previous three year period.
- Met with representatives of Alberta Treasury and the Financial Services Commission of Ontario to obtain their views with regard to GIO operations. Also communicated by email with Ms. Ursula Menke, Commissioner of the FCAC and had a phone meeting with Mr. John Rossi, Director of the Compliance and Enforcement Branch of FCAC.
- Reviewed a selection of more than 60 web sites for member insurance companies.

APPENDIX 2 – SUMMARY OF SUGGESTIONS FOR THE GIO BOARD OF DIRECTORS

This appendix summarizes all suggestions contained in the report. We refer to “suggestions” rather than to recommendations because as has been indicated, we believe that GIO is currently meeting all the key objectives which are to be the focus of the independent review. Governance also appears to be first rate. Therefore the report contains what we might term “observations for potential improvements”, i.e. suggestions. These are summarized below for consideration by the Board:

We Suggest . . .	Reference
<p>1. Quebec Complainants: We suggest that consideration be given to the following possibilities:</p> <ul style="list-style-type: none"> • Expand the capacity of GIO to deal with Quebec complainants through the Toronto office. • Open an office of GIO in Quebec. • Explore with AMF the possibility of referring all Quebec complainants to AMF rather than to the GAA/IBC Consumer Centre. 	Pages 7, 8 and 9
<p>2. Quebec Complainants: We suggest that for so long as GIO is not handling Quebec based complaints, it would avoid potential confusion for complainants if GIO were to request the IBC to modify its web site to make it clear that complaints other than complaints emanating from the Province of Quebec may be referred to GIO, with Quebec complaints being directed to AMF or to the GAA/IBC consumer centre, at the option of the consumer.</p>	Page 9
<p>3. Service in French language: For planning purposes, we suggest that the Board take note that over time it will almost certainly be necessary to increase the extent to which services can be provided in French. At present, French language calls to the Western Canada office are referred to Toronto. Toronto has one CSO who speaks fluent French. As GIO is successful in raising its profile with Canadians, the capacity to handle French language complaints will have to be increased. (But depending on the options selected, this issue might be addressed as a result of actions taken under point 1 above.)</p>	Pages, 6, 9 and 10
<p>4. Third Party Complainants: That the Board either modify GIO’s public information (as well, of course, as internal material for the information of</p>	Pages 10 to 13

We Suggest . . .	Reference
GIO staff and directors) to make it clear that third party claimants are <i>not</i> part of the GIO mandate OR make it clear that they <i>are</i> within the mandate and modify internal protocols and external information as required to deal with this type of complaint.	
5. Internal Controls: That the Board takes steps to ensure that the on-line file system has a high level of control, including assurance that closed files cannot be altered and that generated statistics will include enquiries broken down by common complaint categories.	Page 13
6. Personnel Security: That the Board arranges for additional security to be provided for staff in GIO offices. NOTE: This matter has already been satisfactorily dealt with.	Page 14
7. Corporate Governance: That the Board develops a questionnaire to enable directors to anonymously rate the Board's performance on an annual basis.	Page 14
8. Corporate Governance: That the Board develops conflict of interest guidelines for the guidance of directors.	Page 14
9. Client Satisfaction: That the Board arranges for the development, over a period of time, of a process by which every GIO client would be provided with the opportunity to complete a satisfaction survey in a way that is wholly independent of the CSO who is handling the case.	Page 14
10. Public Profile: That the Board broaden its out-reach initiatives designed to increase the GIO public profile. This could include proactive contact with the Canadian Association of Direct Insurers as well as a bulletin to members with regard to best web site practices in respect of consumer complaints and the role of GIO. Additional consultation with Canadian insurance regulatory agencies may also be helpful in this area. (See also Suggestion #12.)	Page 15
11. Consumer Education: In light of the financial system crisis, international agencies are taking steps to have countries enhance the level of consumer financial education among the population. GIO may be in a position to play a role in such initiatives.	Page 16

We Suggest . . .	Reference
<p>12. Information Sharing: That the Board considers whether it would be possible to provide FSCO with summary statistics on complaints (and enquiries). This could help to provide FSCO with early warning of emerging trends that might require the development of new public policies or other regulatory initiatives.</p>	<p>Page 17</p>
<p>13. Consultation with Regulatory Agencies: That the Board make occasional presentations to the CCIR to encourage the adoption of harmonized regulatory practice across the country with regard to complaint handling and any other matters that may be relevant from a GIO perspective.</p>	<p>Page 18</p>

**Response of the General Insurance OmbudService
to the suggestions made by LS&A in its
Independent Review of GIO, May, 2009**

The suggestions of LS&A are summarized in Appendix 2 of the LS&A report. The responses of GIO follow that summary.

LS&A Suggestion:

1. **Quebec Complainants:** We suggest that consideration be given to the following possibilities:

- Expand the capacity of GIO to deal with Quebec complainants through the Toronto office.
- Open an office of GIO in Quebec.
- Explore with AMF the possibility of referring all Quebec complainants to AMF rather than to the GAA/IBC Consumer Centre.

GIO Response:

- Response to Quebec complainants through the Toronto office has been expanded. As of October 2009 calls referred from the Quebec IBC website are handled directly by the Toronto office.
- A Quebec based Consumer Service Officer and Senior Adjudicative Officer are in the plans for 2010.
- Discussions with l'Autorité des Marchés Financiers (AMF) have commenced to expand GIO's presence in Quebec.

LS&A Suggestion:

2. **Quebec Complainants:** We suggest that for so long as GIO is not handling Quebec based complaints, it would avoid potential confusion for complainants if GIO were to request the IBC to modify its web site to make it clear that complaints other than complaints emanating from the Province of Quebec may be referred to GIO, with Quebec complaints being directed to AMF or to the GAA/IBC consumer centre, at the option of the consumer.

GIO Response:

As GIO is now handling Quebec complainants directly, there is no need to refer them elsewhere.

LS&A Suggestion

3. **Service in French language:** For planning purposes, we suggest that the Board take note that over time it will almost certainly be necessary to increase the extent to which services can be provided in French. At present, French language calls to the Western Canada office are referred to Toronto. Toronto has one CSO who speaks fluent French. As GIO is successful in raising its profile with Canadians, the capacity to handle French language complaints will have to be increased. (But depending on the options selected, this issue might be addressed as a result of actions taken under point 1 above.)

GIO Response

At present French language call volumes are well within the capacity of existing resources. The planned addition of a Quebec based Consumer Service Officer (CSO) and Senior Adjudicative Officer will extend GIO's capacity to serve French language calls.

LS&A Suggestion

4. **Third Party Complainants:** That the Board either modify GIO's public information (as well, of course, as internal material for the information of GIO staff and directors) to make it clear that third party claimants are *not* part of the GIO mandate OR make it clear that they *are* within the mandate and modify its internal protocols and external information as required to deal with this type of complaint.

GIO Response

The Board has confirmed that information and referral assistance to third party complainants is within GIO's mandate. The Mediation and Senior Adjudication services are not. Internal Policies and Procedures have been amended to reflect this and clarify that information and referral can be provided to third party complainants. The GIO website has been amended to clarify how we serve third party complaints.

LS&A Suggestion

5. **Internal Controls:** That the Board takes steps to ensure that the on-line file system has a high level of control, including assurance that closed files cannot be altered and that generated statistics will include enquiries broken down by common complaint categories.

GIO Response

The on-line file system has been amended to prevent change to closed files without a re-opening and re-closing protocol. The protocols put in place allow a Consumer Service Officer to re-open a file. It cannot be re-closed until a record of the re-opening and re-closing is created, including the reason for re-opening. This is supported with restrictions on changes that can be made to files.

Statistics generated will include enquiries broken down by common complaint categories.

LS&A Suggestion

6. **Personnel Security:** That the Board arranges for additional security to be provided for staff in GIO offices. NOTE: This matter has already been satisfactorily dealt with.

GIO Response

Additional security measures as suggested were implemented shortly after initial discussions with LS&A.

LS&A Suggestion

7. **Corporate Governance:** That the Board develops a questionnaire to enable directors to anonymously rate the Board's performance on an annual basis.

GIO Response

A questionnaire for this purpose has been developed and approved by the Board, and will be distributed in February, 2010. Overall assessment results will be reviewed by the Chair and shared with the board in April, 2010.

LS&A Suggestion

8. **Corporate Governance:** That the Board develops conflict of interest guidelines for the guidance of directors.

GIO Response

Conflict of Interest Guidelines have been developed and approved by the Board.

LS&A Suggestion

9. **Client Satisfaction:** That the Board arranges for the development, over a period of time, of a process by which every GIO client would be provided with the opportunity to complete a satisfaction survey in a way that is wholly independent of the CSO who is handling the case.

GIO Response

GIO's Satisfaction Survey was redesigned and renewed recently to be comprehensive and anonymous. Work is under way to put it into the hands of consumers who contact GIO, in a manner wholly independent of the handling CSO.

LS&A Suggestion

10. **Public Profile:** That the Board broadens its out-reach initiatives designed to increase the GIO public profile. This could include proactive contact with the Canadian Association of Direct Insurers as well as a bulletin to members with regard to best web site practices in respect of consumer complaints and the role of GIO. Additional consultation with Canadian insurance regulatory agencies may also be helpful in this area.

GIO Response

Contact with the Canadian Association of Direct Insurers is under way. Contact has been made to members who participate on the Insurance Bureau of Canada Claims Committee with regard to best website practices and this will be followed with a member bulletin including an example of website content for dealing with consumer complaints. Meetings with insurance regulators will take place throughout 2010 and will include consultation on specific issues.

LS&A Suggestion

11. **Consumer Education:** In light of the financial system crisis, international agencies are taking steps to have countries enhance the level of consumer financial education among the population. GIO may be in a position to play a role in such initiatives.

GIO Response

GIO has already been contacted by representatives of the national regulatory authority for a foreign country to learn about our governance and operations. GIO takes pride in the manner in which it addresses complaints and in the coming years will be available to assist other international regulatory authorities and to learn from their experience as well.

LS&A Suggestion

12. **Information Sharing:** That the Board considers whether it would be possible to provide FSCO with summary statistics on complaints (and enquiries). This could help to provide FSCO with early warning of emerging trends that might require the development of new public policies or other regulatory initiatives.

GIO Response

The Financial Services Commission of Ontario (FSCO) has received summary statistics from GIO on a periodic basis over the past few years, including enquires. For 2010 forward, GIO will improve its information system to deliver automated quarterly statistics on GIO. Any emerging trends of interest to regulators are governed by protocols for dealing with Systemic Issues under GIO's *Terms of Reference for Dispute Resolution*.

LS&A Suggestion

13. **Consultation with Regulatory Agencies:** That the Board make occasional presentations to the CCIR to encourage the adoption of harmonized regulatory practice across the country with regard to complaint handling and any other matters that may be relevant from a GIO perspective.

GIO Response

GIO will be meeting with the Canadian Council of Insurance Regulators (CCIR) at its Spring conference in 2010. Opportunities for harmonization of regulatory practices regarding complaint handling will be considered by the GIO board.