


General Insurance Brokers

 If you would like to read this newsletter offline [click here](#) for a PDF download. Note: You will need [Adobe Reader](#) to view this document.

1. The Financial Services Compensation Scheme (FSCS) to be overhauled
2. Changes to the T&C Sourcebook
3. TCF update – FSA expect six outcomes
4. FSA fines firm over poor information gathering
5. FSA issue Protection Payment Insurance (PPI) questionnaires
6. Accounting for Goodwill – 9 months and counting
7. FSA Client Money and Risk Transfer Reviews
8. FSA wants insurers & intermediaries to blow the whistle
9. E-learning – Insurance Firms

Ladies & Gentlemen

Please find enclosed the latest compliance and industry news.

As usual, site back and enjoy!

Kind Regards

ateb consultants

Which article applies to me?

Please use the following table to decide which article applies to you, if any:

	1	2	3	4	5	6	7	8	9
Director/Partner	✓	✓	✓	✓	✓	✓	✓	✓	✓
Compliance / A&O Function	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sales Advisor				✓	✓			✓	
T&C Supervisor		✓		✓	✓			✓	
Back Office								✓	

1. The Financial Services Compensation Scheme (FSCS) to be overhauled

It has been announced that the FSCS will be expanded significantly and its funding radically overhauled. The annual capacity of the scheme will rise from £3.7 billion to £4.4 billion, under new FSA proposals. This is designed to allow the FSCS to cope with ongoing issues such as endowment mis-selling, as well as with future potential claims.

The scheme's funding is to be changed to a 'widening circle' model, where firms will be classified into one of five broad classes of firm – life and pensions, investment, general insurance, deposit or home finance. Each class will then split into two further sub-classes - providers and intermediaries. Under the 'widening circle' model compensation costs arising from a particular 'sub-class' will initially be borne by those firms. However, beyond a certain limit any further costs will be shared among the broader class of firms – both providers and intermediaries.

The changes for contribution groups, thresholds and the cross-subsidy through the wider general retail pool are proposed to come into effect on 1 April 2008. The FSA will consult later this year on proposals for setting the amount each firm will pay. This will be based on a percentage of the income from each contribution group they do business in and will apply from 1 April 2009.

Ateb view:

The proposals appear to be fairer as a firm's contribution will, after a transitional period, be calculated according to its relevant income from its activities and products.

Action required by you:

You can see how the changes will affect your type of firm by looking at the illustrations in Annex 3 of the current consultation paper. These show how current fee groups will be transferred in the proposals, and what the FSCS fees could look like for different firms if compensation needs to be paid.

More information can be found at:

http://www.fsa.gov.uk/pages/library/policy/cp/2007/07_05.shtml

 [Return to Features List](#) or  [Contact Us](#)

2. Changes to the T&C Sourcebook

Proposed changes come into force on 1 November 2007 to coincide with changes required by the Markets in Financials Instruments Directive (MiFID).

The focus is on more principle based regulation (MPBR), and being more 'outcome' based. It is aimed at streamlining, but the FSA emphasises it does not mean a relaxation of standards. The FSA's long term aim is to remove the T&C sourcebook altogether and rely on high level principles. There will not be any transitional provisions because it does not apply any new rules. Proposed changes include allowing firms to determine their own requirement for timescales for passing exams. The two year rule is being removed.

Ateb view:

There's nothing very controversial; it is aimed at slimming down the guidance and reinforcing their more principles based approach. We cannot see there being a need for any significant procedural changes for firms on T&C. The exam requirements stay the same as does the need to have an appropriate system to assess skills, knowledge & experience on an ongoing basis.

Action required by you:

We are keeping a watch on this and will provide more details when we can.

More information can be found at:

http://www.fsa.gov.uk/Pages/Library/Policy/CP/2007/07_04.shtml

 [Return to Features List](#) or  [Contact Us](#)

3. TCF update – FSA expect six outcomes

To stimulate action by firms that were being slow to appreciate the significance of TCF, the FSA introduced the March 2007 deadline. They said that all firms should be at least in the 'implementing' phase of their TCF work in a substantial part of their business by this date. It's worth noting that the March deadline is not a rule. It is a helpful supervisory tool that the FSA use to maintain focus and momentum.

In a speech given by Sarah Wilson, Director Retail Firms Division, on 19 March 2007, she covers the outcomes the FSA are looking for following a successful TCF initiative;

Six Outcomes:

- The fair treatment of customers is central to all firms' corporate culture.
- Products and services marketed are designed to meet the needs of identified consumer groups and are targeted accordingly.
- Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.
- Consumer advice is suitable and reflects their needs, priorities and circumstances.
- Consumers are provided with products which perform as firms have led them to expect and the associated service is both of an acceptable standard and as they have been led to expect.

Consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint.

Ateb view:

All firms by the end of this month should be well on the way to implementing changes that they have decided for themselves they need to implement in order to comply with the FSA

Principles.

Action required by you:

Sarah Wilson's speech can be found at:

http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2007/0319_sw.shtml

[Return to Features List](#) or [Contact Us](#)

4. FSA fines firm over poor information gathering

The FSA has fined an advisory firm £10,500 for failing to properly monitor the quality of sales within an Appointed Representative firm. It did not record sufficient "Know Your Customer" information to be able to demonstrate suitability. They lacked enough detail on client objectives, attitude to risk and affordability. Suitability letters were also found to be inadequate and there were failings in its T&C scheme. The FSA was concerned that the firm had not heeded its findings from a previous visit and also required the firm to appoint an industry expert to carry out a past business review.

Ateb view:

This again shows the importance of strong fact finding at the outset. It is impossible to show that a recommendation is suitable if you cannot show that you have gathered enough personal information on which to base the advice. Distant memories of client discussions are not enough. It must be well documented. To scrimp in this area is false economy. Not only has this firm got to pay the fine, it has the cost impact on its reputation and of financing a third party review of its business. Interestingly, the FSA's action was for breaches of high level principles, rather than rules. Therefore, for them, the burden of proof could be said to be lower because it has only to prove that the outcomes of the firm's actions are not to the standards it would expect. However, it is a higher hurdle for firms because even if you have technically complied with a rule, the FSA can still find that you have not done enough, not acted in the right way or not treated the customers fairly.

Action required by you:

Ensure that your file checking systems are robust and make changes as necessary.

[Return to Features List](#) or [Contact Us](#)

5. FSA issue Protection Payment Insurance (PPI) questionnaires Link

PPI is a generic term that includes, but is not limited to, policies with one or more of the following types of benefits; accident, sickness, unemployment, personal accident and unemployment.

Following on from FSA work during 2006, a number of firms have now received a questionnaire on PPI. The FSA may decide to visit your firm following receipt of the completed questionnaire.

The questionnaire is part of a new phase of work to determine the extent of changes required to the sale of PPI products. The four main elements of the programme involve visits to firms, enforcement action where appropriate, information aimed at consumers, and a review of current FSA rules on PPI.

Ateb view:

Hopefully the FSA work will drive providers to simplify their products and make the ability to claim more realistic. For many firms however, there is a counter argument to the FSA work; We would question whether most high street advisory firms actually advise enough PPI.

Action required by you:

In a nutshell you need to understand the eligibility definitions of any PPI sale and ensure that the product meets the demands and needs of your client and that you communicate the sale in a compliant and clear manner.

More information is available at:

www.fsa.gov.uk/pages/Doing/small_firms/insurance/practice/ppi.shtml

You may find the following document useful to check your current practices

http://www.fsa.gov.uk/pubs/other/factsheet_extras.pdf

Also if you would like some more background reading (Original OFT report) behind then changes then go to:

http://www.oft.gov.uk/shared_oftr/oft/reports/financial_products/oft869.pdf

[Return to Features List](#) or [Contact Us](#)

6. Accounting for Goodwill – 9 months and counting

Goodwill is broadly the difference between the price paid by a company for a business and the book value of that business. It is allowed to be treated as an intangible asset on the acquiring firm's Balance Sheet.

The FSA have allowed a 3 year period for firms with Goodwill on their Balance Sheets to write-off the Goodwill and / or boost tangible Capital Resources in order to ensure the MIPRU 4 rules are complied with from 14 January 2008.

From this date, Goodwill will have to be deducted from a firm's Capital Resources and the FSA will expect the firm to maintain adequate resources after the deduction of Goodwill.

Firms should be devising or implementing plans that will address this issue and ensure sufficient Capital Resources from 14 January 2008 onwards after Goodwill is deducted.

Such plans could include the use of a subordinated loan (which is a certain type of debt capital from one party to another allowed by the rules for inclusion within the Capital Resources), but firms should note the requirements of MIPRU 4.4.7 R to 4.4.9 G which must be complied with in order for the subordinated loan to be eligible for inclusion in the Capital Resources.

There are other alternatives that could be considered and firms should examine all options.

Ateb view:

None - for information only

Action required by you:

ATEB strongly recommends that those firms affected by the change in treatment of Goodwill take immediate steps to address the situation and, where necessary, take professional advice. ATEB are aware of accountants who specialise in this area and will gladly make a referral.

[Return to Features List](#) or [Contact Us](#)

7. FSA Client Money and Risk Transfer Reviews

The FSA undertook two thematic reviews during 2006: Client money and Risk Transfer.

1. Client Money Review

The FSA visited 161 firms which is the largest thematic review undertaken by the FSA looking at various issues from setting up of client trust accounts to Client Money transactions. The results of the findings included;

- 25% of firms with statutory trusts were pre-funding premiums and refunds.
- 7% of firms were still not doing the client money calculation
- FSA concern at the amount of non-client money held in client accounts.
- Failings in disclosure to clients regarding interest and risks under a non-statutory trust accounts.
- Some FSA concern over informed consent being sought.

2. Risk Transfer Project

- 22% of firms did not have a written agreement with the insurer
- 30% of firms were acting outside the scope of the risk transfer agreement.

Of the risk transfer agreements reviewed:

- 25% did not allow co-mingling
- 40% did not subordinate

- 50% were deemed not robust enough.

Overall the FSA were pleased with the results of the client money review and felt that firms have demonstrated that with the right guidance they can arrange protection for client money adequately.

Ateb view:

It is in your interests to use the FSA guidance following these reviews (see below). If they investigate client money failings in your firm in the future, the fact that you have not responded to regulatory communications on client money will be considered to be an aggravating feature of any possible enforcement action.

Action required by you:

The FSA have developed tools to help firms arrange protection of their clients' money.

More information is available at:

http://www.fsa.gov.uk/pages/Doing/small_firms/insurance/client_money.shtml

 [Return to Features List](#) or  [Contact Us](#)

8. FSA wants insurers & intermediaries to blow the whistle

The FSA is looking for Insurers and Insurance intermediaries to blow the whistle on each other where they suspect dubious practices, e.g. false claims or mishandling client money. The FSA will then decide whether to investigate for fraud. The idea is receiving the backing of the BIBA. Reports should be made via the Firms Contact Centre (FCC@fsa.gov.uk) and be marked 'Information from Insurance Firms and Intermediaries – Insurance Intelligence'.

Ateb view:

This might not sound too palatable to some, but it is important that bad practices are highlighted so that they can be scrubbed out and the industry as a whole can benefit from a cleaner profile. There may be fears of malicious use, but it is unlikely.

Action required by you:

More information is available at:

http://www.fsa.gov.uk/pages/Doing/small_firms/insurance/library/reporting_system.shtml

 [Return to Features List](#) or  [Contact Us](#)

9. E-learning – Insurance Firms

As stated within the FSA T&C Sourcebook -TC 2.3.1 R:

If a firm's employees engage in or oversee an activity with or for private customers, the firm must:

(1) at intervals appropriate to the circumstances, determine the training needs of those employees and organise appropriate training to address these needs; and

(2) ensure that training is timely, planned, appropriately structured and evaluated.

What better reason to consider the FSA training packages relevant to small insurance firms?

- Client money for general insurance intermediaries
- Financial resources: Calculating own funds and capital resources
- Retail mediation activities return (RMAR)
- Financial crime
- FSA Handbook: High level regulatory standards
- Complaints handling

Ateb view:

None - for information only

Action required by you:

Further information can be found at:

 [Return to Features List](#) or  [Contact Us](#)

Important Note:

The ATEB Newsletter is intended to provide general guidance on areas of compliance and T&C; however it is not a replacement for the main Rules and Guidance contained within the FSA Handbook.

We welcome all feedback. If you have any feedback or questions relating to any articles then please direct them to your local ATEB consultant or the newsletter editor Steve Bailey email steve@atebconsulting.co.uk

Unless you have consulted specifically (as part of a regular visit) with ATEB on a particular issue then ATEB Consulting accept no liability for any actions taken based on the information contained solely within the newsletter.

Contact Us:

Ateb Consulting
The Old Post House
29 Nedderton Village
Northumberland
NE22 6AX

T: (01670) 822984

M: (07703) 576951

E: steve@atebconsulting.co.uk

W: www.atebconsulting.co.uk