

ATEB consulting Newsletter 6 - October 2002

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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	10	11
Directors/Partners	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Compliance / A&O Function	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Money Laundering Officer								✓			✓
Advisers & Trainees								✓	✓		✓
T&C Supervisor							✓	✓	✓		✓
Pensions Transfer Specialist								✓	✓		✓
Back Office								✓			✓

1. Complaints Reporting - (Deadline 31st October 2002)

All IFA firms are required to submit a report to the FSA on complaints it has received between 1st April 2002 and 30th September 2002. This includes all IFA firms even if no complaints have been received you must still send a nil return. **Important: if the firm does not submit the report within the deadline it is highly likely that a fine will be imposed.**

The FSA preferred method of reporting is by electronic submission. Firms will be able to enter information on-screen and then submit this information directly to the FSA. For audit purposes you should then retain a copy of the email from the FSA confirming receipt. To access the reporting system located on the FSA website you will need to obtain a user ID and password. For further information go to www.fsa.gov.uk/complaints_reporting/

The FSA expect to "go live" in early to mid October and therefore we have a limited window in which to submit returns. If you feel you will struggle to submit your returns electronically, then you may submit a hard copy as an alternative. Please speak to ATEB if this is the case.

ATEB view:

None, for information only

Action required by you:

ATEB will help you with this return as part of our regular October visit.

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2. Claim your FSA Fees and FSCS Levy subsidies (Deadline 30 November 2002)

This article outlines elements of this recently announced important financial assistance to IFA firms. The above subsidies are available to qualifying IFA firms, to help to take some of the pressure off the increased burden of fees.

For 2002/03 The FSA fees and FSCS Levy subsidy will be 20% of fees and 85% of amount shown on the levy notice respectively for A12 or A13 fee block.

The subsidies are part of a voluntary arrangement that has been funded by 20 IFA product providers. IFA firms will need to have conducted business with at least two of the sponsoring offices during the calendar year ended 31st December 2001.

It is anticipated that most IFAs will qualify for the subsidy as most will fall into the A12 or A13 fee blocks and most will have done business with the relevant insurance companies.

How do I claim?

Pass Fees Limited are administering this service, you should contact the PASS helpdesk on 0870 900 7277 for further information or alternatively email admin@pass-fees.ltd.uk or website www.pass-fees.com

Note 1: Authorised Professional Firms - All directly regulated firms will need to submit a copy of their FSA invoice to request a subsidy and therefore authorised professional firms will need to wait until they receive their invoices prior to making a claim.

Note 2: If you have already claimed your FSCS levy subsidy then do not claim again.

ATEB view:

None, for information only

Action required by you:

None, for information only

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3. Annual Controllers & Close Links Reports

These reports only apply to IFA firms that are Limited Liability Companies (LLC) and Limited Liability Partnerships (LLP). If you are a sole trader or partnership this article does not apply to you.

These reports consist of a basic return to the FSA that confirms that there have or have not been changes to the firms controllers and close links in the previous 12 months. Although IFA firms are used to submitting their annual returns they will not have previously been required to complete and return an Annual Controllers & Close Links Report.

The purpose of this note is to highlight a small inconsistency in the records that the FSA hold on individual firms and the FSA reporting procedures for Controllers & Close Links. Basically some firms have already submitted reports to the FSA as per the rules and guidance, however the FSA have responded explaining that they do not hold information on controllers and close links from the previous regulator. In our conversations with "Notifications, Reporting & Data Maintenance Department" it has become apparent that this information was not transferred across during the transition to FSA regulation.

ATEB view:

None, for information only

Action required by you:

ATEB have therefore amended the Annual Controllers & Close Links Report template so that for the time being we can remind the FSA of the current controllers and close links that the firm has. In the meantime, if you have received a puzzling letter from the FSA requesting details of controllers please request an updated template from ATEB that can be used to furnish the FSA with the information they require. This should then be resubmitted to the FSA Notifications, Reporting & Data Maintenance Department at:

Authorisation Division

25 The North Colonnade, Canary Wharf, London E14 5HS

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4. Professional Indemnity Insurance Cover

FSA working with IFA firms

As part of a recent inspection visit, the FSA informed ATEB, they are working with firms rather than against them with regard to PII cover.

The FSA Supervisors felt there were two categories of IFA firms:

1. IFA firms that could not obtain PII cover
2. IFA firms that could obtain cover but on non-compliant terms.

In the first case the FSA felt that these firms would not survive much longer and would inevitably need to cease trading. However in the second scenario, FSA gave examples of where they had worked with IFA firms who had managed to secure PII cover, but with excesses over the maximum compliant limits. These firms discussed had excess liquid assets over the minimum capital adequacy requirements and a good record of handling previous complaints. The FSA had approved this as acceptable with conditions attaching.

If you feel that you may have non-compliant terms, please discuss this with us.

Eligibility for Group Cover

ATEB are acutely aware of the difficulties some IFAs are having obtaining PII cover on reasonable terms. Although, we understand that many IFAs will have their own contact for arranging this cover, ATEB have identified a broker who specialises in this market and would like to explore the possibility of a "Group Cover" arrangement. However we will need the support of as many firms as possible. We propose asking firms to confidentially supply a copy of their latest application for PII renewal so that we can supply the information en masse. Of course there is no obligation to supply this information, however in doing so we may be able to secure better terms for all concerned.

ATEB view:

None, for information only

Action required by you:

None, for information only

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5. Capital Adequacy Requirements

Recently, the European Union has announced its intention to provide consistent regulation across its member states and has commenced research into how a common approach can be achieved. As a consequence, the entire UK financial services industry faces a complete overhaul of its capital adequacy regulations. As you are aware, for most IFAs that do not hold client money the capital adequacy requirements is £10,000 held in an accessible place (note: this excludes investments and property) to cover any liabilities, for example a misselling claim against the firm. The reality however, is that a claim could easily exceed the £10,000 and therefore the IFA would need to rely on PII cover or the Financial Services Compensation Scheme. Many therefore regard this figure as purely token. **It is worth noting that if the firm falls below this amount say to £9,999 they are technically insolvent and will need to inform the FSA and possibly cease trading.**

What does the future hold?

Major change of the capital adequacy requirement is expected. One alternative that has been mentioned is the establishment of a state run fund, into which advisers would contribute annually. This system is already used in some of the other key European countries. Those that are campaigning on behalf of IFAs believe that before any payments into this type of scheme are finalised they will need to take into consideration the size and liabilities of the firm and that a one size fits all approach will deal a further blow to IFAs. We suggest that you keep a close eye on this area and where possible offer support to the likes of AIFA (Association of Independent Financial Advisers) who continually fight the cause.

ATEB view:

None, for information only

Action required by you:

None, for information only

6. The FSA bares its teeth!

We recently attended a Pensions Review Workshop run by PASS Review Limited. Now that the pensions review deadlines have passed, PASS have first hand knowledge of the FSA's approach to monitoring review standards.

Basically, where the FSA has evidence that a firm has patently not fulfilled its regulatory obligations, there is a strong potential for expulsion. PASS have been told that currently, FSA has targeted approximately 800 firms that could be expelled! Although some of these are for obvious gross negligence (e.g. 200 have not even started the pensions review), this still leaves 600 firms and these are not necessarily all for pensions review issues!

Please note also that FSA Enforcement 13.5 has given them the authority to issue immediate fines for late returns, of any kind - pensions review, complaints reporting, etc. FSA have told PASS that they will be implementing such fines, ranging between £200 and £6,000 - **so don't be late!**

ATEB view:

None, for information only

Action required by you:

None, for information only

7. Planned Training:

Supervisor Skills & Knowledge Training:

Don't underestimate the importance of supervisor training; it could cost the firm in lost revenue!

ATEB have recent experience of IFA firms that have not had an appointed supervisor or where the supervisor has been appointed but does not have the necessary documented skills and training.

The FSA gave these firms two choices:

- enrol on a suitable training course ASAP, or
- cease trading temporarily until training has been conducted and documented.

In one example above, the IFA firm was so worried about the thought of having to cease trading that they enrolled on a training course, which cost £600 per day!

The next ATEB supervisors training course is open to those who would want refresher training in addition to those requiring training to satisfy the FSA rule requirements (and at an affordable price).

For further information, or if you would like to attend, call ATEB on 01670 822984 to book a place or email training@tc-solutions.co.uk

Supervisor Course Dates:

Date & Location	2 Days Course covering the following:	Cost
Day 1		
Wednesday 16th October in Newcastle	<ul style="list-style-type: none">• Assessment Skills• Training & Competence knowledge	Cost is £150.00 plus vat per person per day based on a minimum number of delegates attending both days.

Day 2

**Friday 8th
November in
Newcastle**

- Coaching & Training theory – Development skills
- Feedback Skills
- Monitoring Skills.

Cost is £150.00 plus vat per person per day based on a minimum number of delegates attending both days.

For further information, or if you would like to attend call ATEB on 01670 822984 to book a place or email training@tc-solutions.co.uk

ATEB view:

None, for information only

Action required by you:

None, for information only

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8. Recent FSA Visit - Feedback

Recently, an ATEB firm was visited by "Supervisors" from the FSA. The following gives a brief account of what happened. The inspection was not part of a "Themed" visit and had no particular focus; we believe it was a random check of systems and controls. Essentially the visit was split into three parts:

Part 1 – An interview with key people within the firm.

Part 2 – File checks (They made a request for specific files having looked at the new business register).

Part 3 – A debrief to advise of any potential areas that would be included in the subsequent report.

Key points: They asked a number of searching questions during part 1, for example they asked about how the IFA would define, recognise and treat a complaint, what training the firm had received in relation to Money Laundering. They were interested in recruitment and training files of a new adviser, particularly those files that had been checked by the firm's supervisor. They asked about how individuals were supervised and what training the firm's supervisor and decision makers had received.

Generally the feedback was very good and they had no comments on complaints, money laundering, T&C and recruitment, although typically they did pick up on the following, please take note:

1. **Advice** - One client had opted for an immediate withdrawal on an investment bond with a 5% bid offer spread; the FSA questioned why the withdrawal hadn't been left for say one year and the income taken from a deposit arrangement.
2. **Reason "What" Letters** - The FSA felt that some of the suitability letters were borderline reason "what" i.e. features included with no specific linked benefit to the client.
3. **Non-Regulated or Regulated?** - One file examined contained a 63-year-old taking out a 15-year term assurance, which the IFA had classed as "non-regulated" business. However, the fact that the term expired over age 70 made it "regulated" business. There was no suitability letter or fact find on file.
4. **Timing of issue of terms of business** – On one file examined the terms of business had been issued after the business had completed.
5. **Commission disclosure** - One file involving an ISA, there was no illustration on file to show the amount of commission and the figure had not been disclosed in the suitability letter either.
6. Supervisor Checks - **Some of the issues highlighted by FSA were from files that had been checked by the firm's supervisor.**

ATEB view:

In ATEBs opinion, this highlights two issues; it is vital that firms use a comprehensive checklist and process for client file management and equally as important, that they apply it accurately and consistently.

Action required by you:

None, for information only

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9. New Qualification - Financial Adviser Certificate in Trustee Pensions Knowledge

Do you have or advise pension scheme trustee clients?

If yes, you may wish to consider studying for the Financial Adviser Certificate in Trustee Pensions Knowledge. It provides an excellent way for new or existing advisers to obtain formal recognition of their expertise via a qualification from the Pensions Management Institute (PMI).

Background:

Many trustees, particularly of smaller pension schemes, rely on IFAs to advise them of their trustee responsibilities. OPRA is particularly keen to raise the standards of service to trustees and define more clearly the role of the IFA in the process. The certificate it is hoped will address these aims and promote a better understanding of trustee adviser responsibilities.

About the examination:

The Certificate comprises a one hour multiple-choice examination which tests pension knowledge across five areas, including legal, management and actuarial. Its main emphasis however, is on the role and responsibilities of trustees. A copy of the FA Certificate Handbook, including the full syllabus and sample questions, can be found at www.pensions-pmi.org.uk. The first public sitting of the examination is on 20 February 2003.

The CII has developed an intensive training course (The total cost is £260 including the examination fee) first planned dates are as follows:

Day 1 - 14 November 2002	Day 2 - 8 January 2003
Initial Study Day	½ Day study Examination Sitting

Further courses are planned throughout 2003. Further details can be obtained from the CII Programme Supervisor on: 020 7417 3575.

ATEB fully endorse this exam and believe that it presents an opportunity to demonstrate an in-depth knowledge of this financial planning area and to enhance the professional level of service that IFAs currently offer.

ATEB view:

None, for information only

Action required by you:

None, for information only

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10. Business Continuity (Disaster Recovery) Plan

Do you have a Business Continuity (Disaster Recovery) Plan?

If not, then we suggest you set one up. We will be discussing this with you in more detail as we conduct annual audits. FSA has made it clear that a failure to produce adequate records for them to inspect is unacceptable. Excuses such as flood, fire, pestilence or alien invasion, will not be acceptable. Where such instances have occurred with pensions reviews, the FSA has given the IFA a very short time (3 months) to re-undertake the whole review!

You must be able to re-produce vital records in a timely manner.

ATEB view:

None, for information only

Action required by you:

None, for information only

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11. Money Laundering – Gathering of evidence

We have received feedback that some product providers are not accepting the ATEB money laundering form. It is worth reminding ourselves that the Money Laundering form that we use was accepted by the ABI as the “Industry Standard” and all product providers were supposed to have agreed on its use. If they want more than the form covers then this is something that the product provider is insisting on and not necessarily an industry standard.

Unfortunately we cannot control the criteria of the product providers and therefore we would suggest that you contact the provider in advance of business submission to check out any unusual or excessive requirements they may have.

ATEB view:

None, for information only

Action required by you:

None, for information only

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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.

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