

REGULATION NEWSLETTER FOR INTERMEDIARIES

Monday 20th to Friday 24th April 2009

Welcome to the weekly regulation newsletter designed specifically for intermediaries. This newsletter is compiled by IFact Services and includes regulatory and topical information relating to Independent Financial Advisers, General Insurance and Mortgage Advisers.



Policy Statement - PS09/7: FSCS Review of limits - Feedback on CP08/15 & made rules for non-deposit limits
Financial Services Authority

http://www.fsa.gov.uk/pages/Library/Policy/Policy/2009/09_07.shtml

The Financial Services Authority (FSA) is to go ahead with proposed changes to the compensation limits for insurance, investment and home finance advice business in the event of a firm failing, designed to achieve greater simplicity and consistency in the Financial Services Compensation Scheme (FSCS). Jon Pain, managing director of retail markets at the FSA, said: "The changes will help consumers understand and have confidence in the protection provided by the FSCS. In particular it removes the current potentially confusing provisions under which some parts of a claim can be paid out at 100% and other parts at 90%."

The changes, which come into effect from 1 January 2010, mean the compensation limit for investments, home finance advice and deposits will be the same at £50,000 and all claims for non-compulsory insurance will be paid at 90%, with no upper limit.

Investments: Provision and mediation of investments: protection for 100% of £50,000 (currently 100% of the first £30,000 and 90% of the next £20,000).

Home finance mediation: Advising on or arranging house purchase finance: protection for 100% of £50,000 (currently 100% of the first £30,000 and 90% of the next £20,000).

Insurance: Non-compulsory insurance provision (both general and life insurance): protection for 90% of the claim, with no upper limit (currently 100% of the first £2,000 and 90% of the remainder, with no upper limit).

Mediation of non-compulsory general insurance and pure protection contracts (term, critical illness and income protection insurance): protection for 90% of the claim, with no upper limit (currently 100% of the first £2,000 and 90% of the remainder, with no upper limit).

There will be no change to compulsory insurance, such as motor third party and employers' liability insurance, including mediation. This will remain at 100% protection with no upper limit.

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Policy Statement PS09/6: Regulating retail banking conduct of business - Feedback on CP08/19 & final rules

Financial Services Authority

http://www.fsa.gov.uk/pubs/policy/ps09_06.pdf

The Financial Services Authority (FSA) will take over all retail banking conduct regulation for deposit taking and payment services in November 2009. Currently, the Banking Code Standards Board (BCSB) monitors and enforces voluntary Banking Codes which govern banks' day to day relationships with their customers. From November, these arrangements will be replaced by new FSA rules which all banks, building societies and credit unions must follow.

Notable changes for consumers will include the requirement to provide a prompt and efficient service to help customers switch accounts. This would apply more widely than the commitments in the banking codes, for example to cash ISAs, where the FSA has seen delays in the past. So when it comes to switching, customers will be able to have their transfer completed promptly - no matter what type of account.

Another key area is the provision of information. Currently, some informative material about a bank's products and services must be communicated to people once they become customers. The new FSA rules will require this information to be available at the point when people really need it - when they are making the decision whether or not to become a customer. The FSA rules will help consumers to make informed and timely decisions, enabling them to both choose the best account for them, and know how to use their account most effectively.

The FSA will also ensure that the quality of customer service is maintained long after becoming a new customer. A new rule will mean service must remain prompt, efficient and fair for the duration of the relationship. Firms will also need to comply with an explicit requirement to treat customers fairly, including when dealing with customers in financial difficulty and when processing payments. The greater enforcement powers of the FSA, when compared with the BCSB, will also have a deterrent effect that was missing in the Codes. The FSA can, and will where appropriate, fine firms if they fail to comply with the new rules to the detriment of their customers.

Commenting on the changes, Jon Pain, FSA retail managing director said: "These are important new standards that firms will need to meet. They will affect consumers' everyday interaction with banks. Before the new rules come into force, the FSA will publish comprehensive information for consumers detailing their rights and outlining what they can expect from their banking provider."

The new banking rules will sit alongside those of the Payment Services Regulations. This European legislation is designed to harmonise the standards of customer service for all payment transactions throughout the European Union. It contains a number of important consumer protection measures including confirming a customer's right to a refund for unauthorised transactions and requiring a minimum speed for transfers. Areas of retail banking which fall outside the FSA's remit, such as overdrafts and credit card lending, will continue to be regulated under the Consumer Credit Act.

Handbook Publications - Handbook Development Newsletter (Issue 110)

Financial Services Authority

<http://www.fsa.gov.uk/pubs/handbook/hb110.pdf>

This newsletter contains:

1. Information about recent Handbook-related and other developments;
2. Information about recently issued Handbook-related and other publications;
3. An updated timetable for forthcoming publications;
4. Information about Consumer publications; and
5. A link to FSA's Events web page which provides information about forthcoming conferences and training events.

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Handbook Publications - Handbook Notice 87

Financial Services Authority

http://www.fsa.gov.uk/pubs/handbook/hb_notice87.pdf

This Handbook Notice introduces the Handbook and other material made by the FSA Board under its legislative powers on the 23rd April 2009. It also contains information about other publications relating to the Handbook and, if appropriate, lists minor corrections made to previous instruments made by the Board. At its normal monthly meeting, the FSA Board made five instruments which:

1. Make minor administrative corrections to the Handbook, none of which represents any change in FSA policy (FSA 2009/22);
2. Implement the provisions for firms paying application fees to the FSA in respect of the new Payment Services regime (FSA 2009/23);
3. Introduce a new banking conduct of business sourcebook (FSA 2009/24);
4. Introduce new compensation limits for investments, home finance mediation and insurance (FSA 2009/25); and
5. Make amendments to the Enforcement Guide to provide guidance to firms which choose to provide the FSA with a copy of an investigation report commissioned by the firm in anticipation of potential FSA enforcement action (FSA 2009/26).

From the ABI - ABI publishes trade credit insurance Statement of Principles

Association of British Insurers

<http://www.abi.org.uk/Members/circulars/viewAttachment.asp?EID=22609&DID=17616>

The ABI (Association of British Insurers) has published a new Statement of Principles on Trade Credit Insurance, which sets out how trade credit insurers operate and what their clients can expect from them. The Statement of Principles includes:

- An overview of how risk assessment decisions are made.
- A commitment to provide, on request, reasons for a decision to stop or substantially reduce credit insurance cover, and to swiftly resolve appeals against decisions.
- A commitment to work with banks and companies to maximise the potential for UK companies to continue to trade as viable businesses.

Latest ABI figures show that in Quarter 4 2008, the number of trade credit insurance claims rose to 8,366, up from 5,540 in Quarter 4 2007 - an increase of 51%. The value of claims incurred in 2008 was £360m, up from £257m in 2007. Meanwhile, the total value of turnover insured increased to £302.5bn in 2008, up from £282bn in 2007. This demonstrates the commitment of trade credit insurers to support their clients when trading is difficult, by providing them with as much cover as possible and carefully monitoring their risks. The ABI has also published Advice to Businesses on trade credit insurance, which explains what information insurers expect from their clients and the companies they are trading with, an especially important factor when trading conditions are difficult.

Nick Starling, the ABI's Director of General Insurance and Health, said: "Both the Statement of Principles and Advice to Businesses are essential to help correct widespread misunderstandings about trade credit insurance. They reaffirm the important role that insurers have in supporting businesses, especially small and medium-sized enterprises, during these turbulent economic times. Through their risk management processes, trade credit insurers help protect SMEs by warning them of major weaknesses in the companies they supply and by protecting them against unexpected losses. The latest rise in trade credit insurance claims, and the value of turnover covered, shows that insurers are playing a crucial role and continue to help their customers through the recession."

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'Solvency II': European Parliament approval of proposed Directive brings modern insurance regulation nearer

Other Items of Interest

http://ec.europa.eu/internal_market/insurance/solvency/index_en.htm

The European Commission has welcomed the European Parliament's approval of the proposed Directive on the taking-up and pursuit of the business of Insurance and Reinsurance, also known as the Solvency II Directive. Solvency II is a ground-breaking revision of EU insurance and reinsurance law designed to improve consumer protection, modernise supervision, deepen market integration and increase the competitiveness of European insurers. Under the new system, insurers and reinsurers would be required to take account of all types of risk to which they are exposed and to manage those risks more effectively and with increased transparency. In addition, insurance groups would have a dedicated 'group supervisor' that would enable better monitoring of the group as a whole. Intensive negotiations between the Parliament, the Council and the Commission over the recent months have prepared the ground for swift adoption by the EU's Council of Ministers, to which the text as approved by the Parliament will now return.

Internal Market and Services Commissioner Charlie McCreevy said: "I am very grateful to the European Parliament for its contribution to bringing about a new, modern risk-based solvency regime that will deepen integration of the EU insurance market, enhance policyholder protection and increase the competitiveness of EU insurers. We need Solvency II more than ever as a first response to the present financial crisis. We need regulation that requires companies to properly manage their risks; that increases transparency; and that ensures that supervisory authorities cooperate and coordinate their activities more effectively. However I considered the group support regime to have been one of the most innovative aspects of the proposal and a key element in the modernisation of the supervisory arrangements for cross-border insurance and reinsurance companies. I personally regret that it is not now part of the package. I hope however that this will be rectified in due course "

The proposed Solvency II Directive (see IP/07/1060) is a framework Directive, which confines itself to setting out the principles to which the new system would be subject. On a large number of issues, more detailed implementing measures will be set down by the Commission, following consultations with market participants and Member States, under the scrutiny of the European Parliament. The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) will continue to play an important role in the further implementation of Solvency II.

On group supervision, the text as approved by Parliament contains a number of significant improvements as compared to the current system for insurance groups supervision, even though it does not go as far as introducing the group support regime as initially proposed by the Commission. The introduction of a review clause specifically mentioning this regime will however enable the Commission to come back to this issue when progress in a number of other areas, connected to the recommendations of the de Larosière report, will have been made and will have brought about a more favourable environment for further reforms on cross-border co-operation between home and host supervisors.

Solvency II is part of the Commission's Better Regulation strategy and its firm commitment to simplify the regulatory environment and cut red tape. It will mean replacing 14 existing directives with a single directive. The Commission aims to have the new system in operation in 2012. More information is available by clicking on the link above.

From the FRC - FRC Confirms its Priorities and Budget for 2009/10

Other Items of Interest

<http://www.frc.org.uk/press/pub1959.html>

The Financial Reporting Council (FRC), the UK's independent regulator responsible for promoting confidence in corporate reporting and governance, has published its updated Regulatory Strategy and finalised Plan for 2009/10, which are available on the FRC website by clicking on the link above.

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From the Treasury - Budget 2009

Treasury

http://www.hm-treasury.gov.uk/bud_bud09_index.htm

The 2009 Budget Report was published on 22 April 2009. For the full report and links to summary information, click on the link above.

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