

REGULATION NEWSLETTER FOR INTERMEDIARIES

Monday 29th June to Friday 3rd July 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 and Home Finance Advisers.



Final Notice - The FSA fines director for appointed representative control failings

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/087.shtml>

The Financial Services Authority (FSA) has fined Richard Holmes, a director of insurance broker AIF Limited, £20,020 for control failings in relation to an appointed representative firm (AR). In September 2006, Holmes appointed an AR without carrying out the necessary checks, using only assurances from two business contacts. These individuals were subsequently banned by the FSA on 2 November 2006. The following February, an insurance underwriter advised Holmes that the AR had premiums outstanding and rather than checking further, he relied on assurances from the AR that the premiums had been brought up to date. Again, when the AR appeared to have problems paying insurance premiums promptly to AIF, Holmes failed to increase his monitoring in any way and nor did he investigate the way the AR was carrying out its business.

Finally, following a complaint made by a client of the AR in September 2007, regarding its failure to put insurance in place, Holmes terminated the AR's status. Holmes subsequently became aware that the AR had received clients' premiums but failed to pass them on to the underwriter, leaving the clients uninsured. In addition, the AR had also instructed AIF to arrange insurance policies on behalf of clients but had failed to pass on the client premiums to AIF.

The FSA is satisfied that Holmes then ensured that AIF took steps to arrange alternative insurance for the clients who had been left uninsured and also ensured that cover was maintained where AIF had already provided instructions to the insurer. The cost to AIF of ensuring clients remained on cover was approximately £27,000.

Jonathan Phelan, head of retail enforcement, said: "Senior management at firms are responsible for the standards and conduct of the businesses they run - this applies to all firms both large and small. In particular, senior managers should ensure that their appointed representatives are appropriately overseen. As a director of the firm, Richard Holmes failed to carry out sufficient initial checks and then failed to monitor adequately the activities of the AR over a period of almost a year despite identifying a number of concerns early on during the AR agreement - this falls below the standards that FSA expects of firms. Directors who fail to discharge their personal responsibilities, including monitoring ARs properly, give rise to a risk of consumer loss and we will take action against them."

The FSA took into account that Holmes did not deliberately set out to contravene its requirements; co-operated with the FSA and took remedial action to ensure clients were not left uninsured. Holmes agreed to settle at an early stage of the FSA's inquires and therefore qualified for a 30% discount under the FSA's executive settlement procedures. Without the discount the fine would have been £28,600.

www.qbeeurope.com/pi
tel: 020 7105 4000
e-mail: enquiries@uk.qbe.com

Final Notice - FSA bans East London mortgage broker for fraud

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/090.shtml>

The Financial Services Authority (FSA) has banned Hornchurch-based mortgage broker Abdul Karim for submitting a mortgage application for himself that was based on false information about his income. Margaret Cole, FSA enforcement director, said: "Mortgage fraud poses a serious risk to the financial system, so we are continuing to take action against mortgage brokers who abuse their position in this way. We have banned over 50 brokers in the last three years, and 2009 will see more prohibitions for those involved in mortgage fraud."

Karim applied for a mortgage of £480,000 telling the lender that his annual income was more than £100,000 - while at the same time declaring an annual income to HM Revenue and Customs of £30,000. As the £480,000 loan applied for was 16 times his declared income the FSA found he must have known that the application would not meet any lending criteria. It therefore seemed highly likely that he knowingly declared a false income of more than £100,000 as the only way to obtain a loan of that scale. The FSA has also cancelled the permission of Karim's firm Monopoly@States Limited.

Speech - FSA chairman tells bankers radical changes in regulation essential

Financial Services Authority

http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2009/0630_at.shtml

Lord Turner, chairman of the Financial Services Authority (FSA), said that excellent supervision is a necessary but not sufficient condition for financial stability, warning that unless rules are changed radically, future crises will not be avoided. In a speech at the annual British Bankers' Association conference, he said that it is essential that we learn lessons and accept the need for radical change - change in the style of supervision, change in the regulations applied to banks, and changes in the banks themselves.

He argued that strong capital and liquidity are central to the reform of banking regulation going forward. Lord Turner said: "One clear need is to get better at identifying emerging systemic risks - and to create tools which can act against these risks at the macro level. But it is essential to recognise that however much we improve our ability to see bumps in the road ahead, that ability will remain highly imperfect. So the more fundamental change is to create a financial system with more shock absorbers: and the shock absorbers of the banking system are capital and liquidity."

Lord Turner went on to identify three interconnected issues where the FSA's own thinking had progressed since the publication of the Turner Review or where there are a number of possible solutions for further consideration. He argued that their resolution will be key to the design of the new capital and liquidity rules needed at a national, European and global level.

- How to deal with banks which are too-big-to-fail;
- How to deal with cross-border banks;
- Narrow banks and investment banking: whether it is possible to achieve a legal separation.

In conclusion, Lord Turner said: "The new, more intensive approach to supervision and the new regulations which we can and will impose can guard, to a significant extent, against the dangers of financial instability. But it is up to the banking industry itself to restore an appreciation of the positive role which banking can and must play and to create a culture focused on delivering necessary services to customers."

www.qbeeurope.com/pi
tel: 020 7105 4000
e-mail: enquiries@uk.qbe.com

Speech - Mortgage market review and regulation of secured lending

Financial Services Authority

http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2009/0701_jp.shtml

Speech by Jon Pain, Managing Director, Retail Markets, the FSA at the Association of Finance Brokers. In this speech, Jon Pain discusses the FSA's mortgage market review, the future regulation of secured lending and FSA's views of payment protection insurance and their approach to conduct risk.

Instrument - FSA interim regime for regulating sale & rent back schemes in force on 1 July 2009

Financial Services Authority

http://www.fsa.gov.uk/pubs/handbook/instrument_2009_36.pdf

Firms that intend to carry on sale and rent back (SRB) activities from 1 July must apply for interim permission. Firms must not undertake SRB activities without permission. The FSA will closely monitor the market and take action where they find firms operating without permission.

The FSA's Regulation round-up - June 2009

Financial Services Authority

http://www.fsa.gov.uk/smallfirms/resources/regulation_roundup/index.shtml

Visit these web pages which provide a regulation round up from June 2009.

New Consumer Publication - Problems Paying Your Mortgage

Financial Services Authority

http://www.moneymadeclear.fsa.gov.uk/pdfs/mortgage_cantpay.pdf

Problems paying your mortgage is the new title for 'What to do when you can't pay your mortgage'. The FSA has updated this guide on 1 July 2009. Firms have three months to use old stocks from this date.

Press Release - Adam Phillips appointed Chairman of Financial Services Consumer Panel

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/089.shtml>

The Financial Services Authority (FSA) announced that Adam Phillips has been appointed chairman of the Financial Services Consumer Panel. He has been vice chairman of the Panel since 2005 and acting chairman since December 2008. Adam Phillips said: "At a time when financial services regulation is under the spotlight, I am delighted to take on the leadership of the Consumer Panel in its vital role of constructively challenging the FSA on its regulatory policies." FSA chairman Adair Turner said: "The Consumer Panel has a valuable role to play in ensuring that the FSA takes the consumer interest into account. We are very pleased that Adam has agreed to bring his experience to this important role."

www.qbeeurope.com/pi
tel: 020 7105 4000
e-mail: enquiries@uk.qbe.com

Press Release - The FSA announces final stage of operational reforms with new integrated operating structure
Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/088.shtml>

The Financial Services Authority (FSA) has announced a new operational structure designed to better align its internal operating model to its core activities of identifying and mitigating risk, supervision and enforcement. The reorganisation also takes account of the changing role of the FSA in respect of international regulatory engagement, macro-prudential analysis and consumer financial education. The changes will take effect from 1 October and will conclude the significant internal reforms the FSA has undertaken during the last two years, incorporating the lessons learned from the banking crisis, the Northern Rock internal review and the priorities outlined in the Turner Review.

Hector Sants, FSA chief executive, said: "This new structure completes the radical internal reforms that I initiated when I became CEO in July 2007. The new structure will underpin the radical changes we have made to our supervisory processes through the Supervisory Enhancement Programme (SEP). SEP was designed to deliver a significant increase in our supervisory resource and changes to the way we work, in particular for 'high impact' or systemically important firms. The programme is on track and will be completed by the end of this year."

The six specific benefits resulting from the organisation changes are:

1. Integration of retail and wholesale firm supervision into one Supervision business unit under managing director, Jon Pain, which will ensure long term consistency and flexibility to the implementation of the FSA's supervisory philosophy.
2. Integration of risk identification, risk management and policy formulation into one Risk business unit under managing director, Sally Dewar. Grouping all the FSA's technical specialists in one group will ensure, at all times, the required focus on conduct and prudential risk.
3. Expansion of the existing Financial Stability team to become a new, enhanced division under director David Strachan, focusing on macro-prudential issues and providing the central link for the FSA with the wider macro-prudential framework.
4. Creation of a new International division, under director Verena Ross, which will enable the FSA to significantly increase the FSA's engagement with international fora.
5. Integration of Enforcement and Financial Crime to form one division under director Margaret Cole, which will enable the FSA to better extract the synergies in this important area, to enhance delivery of its credible deterrence strategy.
6. Financial Capability division will move from the existing Retail business unit to become a standalone division, under director Chris Pond and will report directly to Hector Sants. This will put the FSA in a better position to take forward the national roll-out of the Money Guidance service, as announced in the 2009 Budget.

Hector Sants continued: "These changes will provide greater clarity, both internally and externally, as to the way we work and, in particular, reinforce our role as micro-prudential supervisor based on a model of integrated risk analysis and integrated supervision. I believe the actions we have taken since the crisis began have shown the effectiveness of this model. This reorganisation will ensure our changing working practices and the way we make our judgements are successfully institutionalised."

www.qbeurope.com/pi
tel: 020 7105 4000
e-mail: enquiries@uk.qbe.com

FSA Update on Keydata Investment Services Ltd

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/Statements/2009/keydata.shtml>

On 8 June the Financial Services Authority (FSA) applied to have Keydata Investment Services Ltd (Keydata) placed into administration on the grounds that it was insolvent. PricewaterhouseCooper (PwC) has announced that as a result of concerns around some Keydata products it has suspended certain interest payments and certain redemption rights. The FSA is now working closely with the administrators to reach a solution for investors as fast as possible and is also in discussions with the Serious Fraud Office about the potentially missing assets underlying some of these products. If it emerges that Keydata has caused customers to suffer a financial loss and cannot meet its liabilities, the Financial Services Compensation Scheme (FSCS) may be able to help. The concerns only came to light during PwC's detailed forensic examination of Keydata's business and it remains a complex situation. PwC is also endeavouring to sell as much of Keydata's business as possible and will continue to run the remainder of the business.

Products affected - This situation is constantly under review and further updates will be made as soon as possible:

Secure Income Bond 1, 2, 3 - At the moment, no income can be paid out to investors and redemptions have been put on hold. PwC is trying to trace the assets underlying these products. PwC will shortly be writing to customers due an interest payment.

Income Property Bond 1- 6 - At the moment, no income will be paid to investors and redemptions have been put on hold.

Secure Income Bond 4, Secure Income Plan 1-12 & 14 and Defined Income Plan 1-8, Special Editions and other Lifemark branded products

Investors will continue to receive income from their investments, but redemptions have been put on hold. The assets underlying these products are secure.

Products not affected - Third party products and products backed by major financial institutions. People with money invested in the funds where Keydata provided third party administration services and those backed by major financial institutions are not affected - there are no concerns about their investments.

PwC will be providing further updates through its Keydata website regularly. Customers can also call their helpline on 020 7804 4424, but at this stage no further information is available. The FSA has been investigating Keydata since discovering that the firm had been targeting investors with potentially misleading advertising materials and discovered a number of tax irregularities with some of Keydata's ISA products. These were referred to HM Revenue & Customs. The FSA is also working closely with other regulators including the Serious Fraud Office and overseas authorities to help resolve this situation.

www.qbeeurope.com/pi
tel: 020 7105 4000
e-mail: enquiries@uk.qbe.com

Press Release - Lord Turner appointed chair of FSB's Standing Committee for Supervisory & Regulatory Co-operation

Financial Services Authority

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/085.shtml>

The Financial Services Authority (FSA) chairman, Adair Turner, has been appointed chairman of the Financial Stability Board's Standing Committee for Supervisory and Regulatory Co-operation. The Financial Stability Board (FSB) was re-established in April 2009 as the successor to the Financial Stability Forum (FSF). It brings together national authorities responsible for financial stability in significant international financial centres, international financial institutions, sector-specific international groupings of regulators and supervisors, and committees of central bank experts. Lord Turner said: "The global nature of the financial crisis and the fact that so many banking groups operate across national borders make international co-operation a vital part of reforming regulation. We will work hard on this committee to define the regulations and supervisory approaches needed to address these global risks and identify priorities for regulatory policy needed to tackle them."

The Standing Committee for Supervisory and Regulatory Co-operation will address coordination issues that arise among supervisors and regulators. It will also help with contingency planning for cross-border crisis management at major financial institutions and advise on crisis management issues more broadly.

From the Pensions Regulator - Regulator explains approach to risk transfers in changing landscape

Other Items of Interest

<http://www.thepensionsregulator.gov.uk/mediaCentre/pressReleases/pn09-08.aspx>

The Pensions Regulator published new guidance and a code of practice for trustees, advisers and sponsors to enable responsible management of risk transfers in a changing landscape. In line with the regulator's approach to educate and enable, and to enforce only as a last resort, a new module to the Trustee toolkit, 'Buy-ins and partial buy-outs', has been published to provide guidance to those considering transferring pensions risk to insurers. This includes:

- what is meant by buy-in and partial buy-out
- the differing roles of the employer and the trustee
- the options and schemes' objectives
- data management and administration
- the process of bulk annuity purchase

The toolkit module is published alongside a new code of practice, 'Circumstances in relation to the material detriment test,' designed to sustain effective long-term protection of members' benefits and the PPF, including to enable the regulator to act to prevent transfers to inappropriate vehicles. This is accompanied by high-level guidance and illustrative examples of the new material detriment test and code. The regulator's clearance and abandonment guidance have also been updated for accuracy.

www.qbeeurope.com/pi
tel: 020 7105 4000
e-mail: enquiries@uk.qbe.com

From the FOS - Ombudsman News - Issue 77

Financial Ombudsman Service

<http://www.financial-ombudsman.org/publications/ombudsman-news/77/77.pdf>

In this latest newsletter from the Financial Ombudsman:

- financial disputes involving the use of the internet;
- recent complaints about private medical insurance;
- frequently-asked questions about the ombudsman service; and
- Walter Merricks, chief ombudsman, on responsibilities, obligations and rights in relation to complaints about financial services

From FATF - Guidance for Money Service Businesses - Risk-Based Approach

Other Items of Interest

<http://www.fatf-gafi.org/dataoecd/45/1/43249256.pdf>

The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering and terrorist financing. Recommendations issued by the FATF define criminal justice and regulatory measures that should be implemented to counter this problem. These Recommendations also include international co-operation and preventive measures to be taken by financial institutions and others such as casinos, real estate dealers, lawyers and accountants. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard. The Guidance is primarily addressed to public authorities and Money Service Businesses (MSBs). MSBs generally provide a subset of the financial services provided by financial institutions. This Guidance focuses on the transfer of money or value and money and currency changing operated by MSBs. The purpose of this latest Guidance is to:

- Support the development of a common understanding of what the risk-based approach involves.
- Outline the high-level principles involved in applying the risk-based approach.
- Indicate good public and private sector practice in the design and implementation of an effective risk-based approach.

www.qbeeurope.com/pi
tel: 020 7105 4000
e-mail: enquiries@uk.qbe.com

Important notice

QBE Insurance (Europe) Limited and any of its associated companies and contractors ("QBE") shall not be liable for any losses or damages whatsoever, whether in contract, tort (including negligence except in the case of death or personal injury) or otherwise arising from use of or reliance on information in, derived from or absent from this Newsletter, or from any delay in receiving or accessing this Newsletter for whatever reason.

QBE does not represent or warrant that access to the Newsletter will be uninterrupted or that there will be no failures, errors or omissions or loss of transmitted information.

QBE shall not be liable to the reader or any third parties for any direct, indirect, special, consequential or punitive damages allegedly sustained arising out of use of or reliance on this Newsletter or any of the information or materials available in it or via the links referred to by it or any subsequent links.

Third party websites

The Newsletter contains links to websites over which QBE has no control. QBE does not accept responsibility or liability for the operation or content of such websites.

Applicable law

The Newsletter (including these terms) shall be governed by English law. The English courts shall have exclusive jurisdiction over any disputes arising in connection with the Newsletter.

Complimentary Helpdesk

Should you require further information or have questions relating to this update or any regulatory issues, QBE has arranged for IFACT Services Ltd to provide a complimentary telephone service to assist intermediaries.

IFACT can be contacted at:

Telephone Number: 08456 121211
Email: queries@ifact.co.uk
Website: www.ifact.co.uk

QBE PI is a combination of the professional indemnity strengths and capabilities of the market leading DA Constable Syndicate 386 and QBE Insurance (Europe) into one specialist team. With over 30 years experience combined, QBE PI is the largest professional indemnity team in the market offering a broad range of flexible solutions to suit the needs of brokers and clients - from major multinational to sole practitioners. QBE PI has been structured to provide the most effective underwriting and claims service reflecting the diversity of our clients' size and professions. Our four underwriting units provide comprehensive insurance solutions across the spectrum of client sizes and buying preferences. For more information, visit www.QBEurope.com/pi

www.qbeurope.com/pi
tel: 020 7105 4000
e-mail: enquiries@uk.qbe.com