



RWA

Solutions

Regulation – stay in the loop!

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Today's Objectives

- To update you on current Regulatory activity.
- To let you know where the FCA (& Others) may be going.
- To give an overview of other legislative matters which may affect you.
- To give an insight into FCA Expectations.
- To help you prepare for the future

Some of the BIG issues!

- Training & Competence
- Appointed Representatives
- The Insurance Act
- CMA report
- The Third Parties (Rights Against Insurers) Act 2010
- The new General Data Protection Regulations (5/18)
- Unrated / Overseas Insurers
- Renewals

Training & Competence

Still a BIG issue!! – The FCA still has considerable concerns

- How do you define and measure competence
- FCA expect regular recorded testing
- CPD should be for all staff including Directors/Partners
- Lack of annual sign off of competence
- *Lack of ability to demonstrate Supervisor competence*
- The new IDD....

Appointed Representatives

TR16/6 – July 2016

- Risk Management – How does the AR fit your business model?
- Lack of pre appointment Due Diligence
- Lack of formal contracts
- Poor Governance & Oversight
- Poor complaints handling
- An annual check is NOT enough
- Insufficient resources at Principal to supervise
- Lack of competence to supervise AR sales (products not sold by Principal)
- Some evidence of Mis-selling

The Insurance Act

- Does your client (and do you and your staff) understand his duty of a Reasonable search?
- Does your client (and do you and your staff) understand his duty of a Fair Presentation?
- Does your client (and do you and your staff) understand the new claims options?
- What about Contracted Out – does your client know? (do your staff know?)
- Explanations about warranties etc...
- Data Dumping and what insurers are doing
- Need for specific client TOBAs
- Account Consolidation – **working with Insurers you trust.**

CMA Report

- A distinct lack of clarity from the CMA who gave numerous amounts of conflicting guidance.
- Still not clear if all insurers are producing the notices – we have heard reports that some insurers are saying that they do not have to..
- Hopefully all up to date, but do not forget the first annual report on 1 Feb 2017.

The Third Parties (Rights Against Insurers) Act 2010

- Despite being called the Third Parties (Rights Against Insurers) Act 2010, this did not come into force until 1 August 2016 and replaces an older act from 1930.
- The act introduces some significant changes from that date resulting in third parties being allowed to bring claims directly against the insurers of insolvent companies.
- For brokers, this means that third party claimants (and their lawyers) will ask for information about what insurance cover exists in the insolvent company's assets, who the insurer is, what the terms of the policy are, whether the insurer has previously declined cover etc.

The Third Parties (Rights Against Insurers) Act 2010

- There are sanctions in the Act for failing to provide information, and if information is not provided within 28 days could result in a court order with some even more unwelcome cost implications.
- However, it is important to remember that there is a limit on the information that the act allows you to provide, so beware of infringing Data Protection rules. The information to be provided is shown in Schedule 1, section 1(3) of the act and this can be viewed at –

http://www.legislation.gov.uk/ukpga/2010/10/pdfs/ukpga_20100010_en.pdf

General Data Protection Regulations

- Apply from 25 May 2018 (That may change depending on BREXIT position)
- Designed to bring the old legislation up to date with advances in cyber and social media
- New Data Protection Principles
- Changes in Subject Access Requests
- The Information Commissioner's office is already working on guidance for 2018
- New Data Protection Notices needed
- ICO Microsite - <https://ico.org.uk/for-organisations/data-protection-reform/>

Overseas / Unrated Insurers

- **Overseas Insurers** – do you check out what the equivalent FOS/FSCS protection is?
- If less than UK, do you check if topped up in the UK?
- If not, do you warn clients?
- If via a wholesaler, do you check what due diligence they have done – you must!
- **Unrated Insurers** – Do you advise the client (in writing) what this means and how this may impact them?
- Remember, If via a wholesaler, do you check what due diligence they have done .

Remember it is your duty to give the client enough information to make an informed decision.

Just think about...

..... Balva, Leema, ERIC, Enterprise
and Gable

If information is available in the public domain, you must take some action or you could be held liable if it all goes wrong and claims do not get paid. **After all, you recommended them!**

***Make sure you have done your
own due diligence***

PS16-21 Renewals

Effective 1/4/17

Key Points

- Disclose last year's premium at each renewal
 - The Annualised equivalent to be used in the case of MTA's
- Encourage consumers to check their coverage and shop around for the best deal at each renewal
- Identify consumers who have renewed with you on four consecutive occasions and give those customers a different but prescribed message encouraging them to shop around.

PS16-21 Renewals

Warning messages for clients to check cover etc.

– 3 or less renewals – non prescriptive text

E.g. (FCA Example – but your choice) – “Have you checked that your insurance cover still meets your needs? Have you considered shopping around to find the best deal for the cover you want?” (Pg. 13 of the Policy Statement)

– 4 or more, Prescriptive text that must be used

“You have been with us for a number of years. You may be able to get the insurance cover you want at a better price if you shop around.” (Pg. 14 of the Policy Statement)

So, what else is around?

- Client Money
 - CP12/20 – Dead in the water – No Further Action
 - More individual work, e.g. CASS Audits, Client Acct documentation
- Client TOBAS
 - A legal document.....a service agreement and a legal contract?
- Outsourcing
 - Do you have robust agreements
 - Do you know where responsibilities lie?
- DBS & Fit & Proper Checks
 - Standard/Limited
 - Approved Persons Only

and also.....

- Executive Changes at the FCA
 - How will the Andrew Bailey be received and what difference will it make? (See BREXIT...)
 - New Chairman post new CEO.
 - New Number Three.
 - Loss of Key FCA staff (Simon Green, Rory Percival, Lucy McClements)
- Thematic Reviews continue
 - Expect reviews into Chains & Whistleblowing
- Uninsured Risks (e.g. Cyber, EPLI etc...)
 - Do you have give the client a list of what else you may to able to help with?
 - Does it cover every single product he has not got (inc Keyman, Term, Group Life, PHI, PMI etc)

and also.....

- BREXIT – Now what?
- Euro Exchange rate – a broker issue?
- Need for PII indemnity limits reviews in general
- End of Initial Disclosure Documents
- Complaints rule changes
 - Have you updated your website?
- New Senior Managers Regime from 2018 – Huge HR issues....
 - Initial view seems to be that it will follow bank/insurer model
- Proposals for FCA to reregulate CMC's following HMRC review.
 - Some “*Strong*” language from Canary Wharf

And those that have not gone away...

- Insurance Distribution Directive
- FCA worries about Debt Management firms & credit in general...
- Conduct Risk
- Vulnerable Customers
- Financial Incentives
- Use of Social Media
- Need for Business Plans
 - Including Succession plans and Remuneration Policies.

So, in summary...

A few key messages.....

- T&C – A hot topic if ever there was one..
- Thematic reviews are here to stay.
- Expect change at the FCA.
- Watch for Conduct Risk
- The Insurance Act will develop over time
- Review all your AR processes

Today's Objectives

Have we met them?

- We have looked at where the FCA may be going.
- We have seen an overview of other legislative matters which may affect you.
- You have an insight into FCA Expectations.
- Hopefully you can prepare for the future.

Hot off the press!!

NEW Financial Reporting Council standards for CASS Audits

- Not a new FCA requirement
- A new requirement placed on auditors by the FRC
- Firms need to discuss with auditors what they require and how they will assist.

<https://www.frc.org.uk/News-and-Events/FRC-Press/Press/2015/November/FRC-publishes-standard-on-providing-assurance-on-C.aspx>

*Any questions, thoughts,
comments or observations?*

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