

The following Compliance articles are for the week ending 20 February 2009.

STOP PRESS

Distribution of this week's News Flash has been delayed by 24 hours while we assessed breaking news. FSA have demanded that firms still selling or underwriting single premium PPI with unsecured personal loans cease doing so as soon as possible - and in any event by 29 May 2009.

In a three prong approach with letters to the CEOs of each firm selling or underwriting single premium PPI policies, a high profile Press Release and a speech by Dan Waters at the BBA seminar, FSA have effectively leap-frogged over the deadline set by the Competition Commission (CC) last month. The CC report prohibited the sale of these policies by 1 October 2010. FSA are not prepared to wait that long, and have taken matters into their own hands by insisting on the practice ceasing more than a year earlier because of their concerns over how this product has been and continues to be sold, and whether consumers have been treated fairly during the sales process.

Jon Pain said "In view of our ongoing concerns across the single premium market over the standard of sales, we believe this request is justified to bring an orderly withdrawal of single premium PPI from the market."

Dan Waters – slightly out of context as the Asset Management Sector Leader - took the opportunity to focus attention on the breaking news at the BBA seminar. He pointed out "This is a significant market. At the present time, Data Monitor estimates that there are around 20 million PPI policies in force, with 6.5 to 7.5 million new policies sold annually. During 2007 alone, consumers paid around £4 billion in premiums."

Dan also went on to say "After 20 enforcement cases, including the imposition of a record £7 million fine, as well as issuing a number of clear guidance notes and warnings, it has been an incredible disappointment to continue to see problems with sales standards."

Dan then addressed complaints handling for this product and referred to imminent announcements by FOS. He said "In addition to the fair handling of complaints, it is fundamental for firms to give consideration to whether flaws in their processes have led to poor consumer outcomes and to take steps to tackle the root cause of the problems. I am sure that the FOS will discuss in detail its comments on complaint handling processes. I would ask that you listen carefully".

With that warning, his speech is a must-read for anyone involved in this product.

Recipients of the CEO letter are expected to send a response to Jon Pain, the recently appointed MD of the Retail Markets Division of FSA, by end March 2009.

Click the following links for:

[CEO Letter](#)

[Press Release](#)

[Dan Waters' Speech](#)

Tribute to David Kenmir

The wait is over. Having announced that he was moving on to pastures new in July 2008, FSA have finally announced who will take over from David Kenmir, see below.

David will be missed, particularly by those of us who had the pleasure of working with him. Not only for his starring roles in the FSA pantomimes and his charismatic stage presence comparing conferences, but because he is genuinely well informed, an excellent manager of resources and who thinks realistically, clearly and commercially. He is also a plain speaker, noted for conciseness and directness, throughout his 20 years experience of regulation from the early days at The Stock Exchange.

It is not surprising that it took 8 months to find a successor equal to this role.

FSA – Appoints David Kenmir’s Successor

The successor to David Kenmir as Chief Operating Officer of FSA was announced on 17 February. Mark Norris will have overall responsibility for all aspects of finance, planning, HR and project management, facilities and information systems across the whole of the FSA.

Mark has 25 years experience in financial and professional services, most recently as COO of Credit Suisse's UK private banking business. His career includes senior roles in operations, audit and compliance, in the UK as well as Japan, Hong Kong, Australia and the USA. A qualified accountant and member of the Institute of Chartered Accountants in England & Wales and Australia, Mark's early career included Audit Services roles at KMG Thomson McLintock and Price Waterhouse.

He joined Jardine Fleming Hong Kong in 1994, and later took up the role of COO for the Investment Bank's Japan operation. Between 1998 and 2003 Mark worked for Deutsche Bank. He was head of operations for Deutsche Asset Management in Europe before moving to JP Morgan's Worldwide Securities Services business in the USA subsequently taking over as head of operations Europe at the bank's Asset Management business in London.

Source: FSA Website

FSA – Regulating Reclaim Funds

On 17 February, FSA set out how it aimed to regulate the new reclaim funds – the institutions that will be responsible for dormant accounts transferred to them from banks and building societies. Under the Dormant Bank and Building Society Accounts Act 2008, which received Royal Assent on 26 November 2008, reclaim funds will be authorised and regulated by the FSA. They will be under an obligation to transfer surplus money, after meeting FSA requirements and their own expenses, to the Government's 'Big Lottery Fund' (BIG), which will reinvest the money according to Government priorities.

Graeme Ashley-Fenn, FSA director of permissions, decisions and reporting, said: "Reclaim funds will be a unique type of financial institution with the characteristics of both a bank and an insurer. This is because they will have dormant accounts transferred to them and will also have to estimate the percentage of deposits that are likely to be reclaimed. Our regime will reflect this uniqueness and will be proportionate and cost-effective with clear prudential requirements for reclaim funds to retain sufficient money to repay dormant depositors that may claim their money at a later stage."

The FSA has pre-consulted and worked with the British Bankers' Association (BBA) and the Building Societies Association (BSA), as well as the Treasury and will work with interested applicants on a pre-application basis and also through the authorisation process. The consultation period has also been shortened to two and a half months, given this pre-consultation process.

The Financial Ombudsman Service (FOS) and Financial Services Compensation Scheme (FSCS) will cover customers of banks and building societies who have dormant accounts transferred to a reclaim fund.

Source: FSA Website

ABI – Announces Fund Sector Review to Aid Comparisons

The ABI is to review the purpose and function of the ABI Fund Sectors. These categorise different types of investment fund, allowing consumers and financial advisers to compare funds with similar investment profiles against each other. While the ABI does not collect or publish performance data of individual sectors or funds, the ABI Sector classifications allow other organisations to do just this, for comparison purposes. On 18 February, Stephen Hadrill, ABI Director General, said: "The ABI Sectors categorise similar investment funds, enabling consumers and advisers to compare their performance. However, the current economic crisis has highlighted the need for a fundamental review of the ABI Sectors to ensure that they continue to meet the needs of consumers and advisers as risk changes. That review is already underway, with the strong backing of ABI members.

The first stage is to examine closely the Money Market sector and propose options for reform. This will be completed quickly. The second stage will look at all the other ABI Sectors. This review shows our determination to act in the interests of consumers, and is a positive step forward for customers of the insurance industry and their financial advisers. Alongside it, we have repeated our expectation that all communications with customers about investment funds should be clear and transparent about the types of assets held in those funds and the level of risk they carry."

All relevant bodies will be consulted in the course of the review, including the IMA, FSA, AIFA, consumer organisations and data analysis companies.

Source: ABI Website

FOS – Publishes Latest Edition of Ombudsman News

Walter Merricks, Chief Ombudsman at FOS wrote the leading article in the latest edition of Ombudsman News, which was published on 17 February. Entitled "A somber outlook", it exposed some fascinating trends in terms of a 66% anticipated increase in numbers of complaints for this year, leading to increased staff and costs at FOS – and increased numbers of upheld complaints as Walter believes that firms are more likely to turn down complaints in these straitened times rather than investigating and settling them.

Whilst the full text is essential reading for anyone involved in complaints, two key comments from Walter are especially worth noting: "In its Financial Risk Outlook, the FSA warns firms against cutting back their resource devoted to complaints-handling – which I imagine means that the FSA will scrutinise this area more closely.

So I suspect that the lowered heads and furrowed brows I have seen recently indicate that firms are wrestling with how to comply with the FSA's complaints-handling requirement – and at the same time make the right calls in managing their businesses through this recession. For their employees and their customers, I hope they succeed. Rebuilding trust in financial services requires acknowledging where things have gone wrong and putting them right.”

The publication goes on to give case studies on consumer credit complaints, discusses how the accessibility and transparency agenda is being taken forward, gives case studies on household contents insurance complaints and provides the usual Q&A page.

Source: FOS Website

2009 Budget Statement

The Chancellor, Alistair Darling will deliver his 2009 Budget statement to the House of Commons at 12.30pm on 22 April. The timing of the Budget has been delayed so that the Chancellor can accommodate or respond to any decisions that are reached on dealing with the global economic crisis at the G20 summit to be staged earlier in April.

Dates & Deadlines

27 Feb VAT Return Date, Tax Payment Date, Corporation Tax Return Date

28 Feb Corporation Tax Payment, Company Accounts Filing Date, Intrastat

Source: www.horsfield-smith.co.uk

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Corporate Governance Assurance Services Ltd

www.cgas.co.uk