

The following Compliance articles are for the week ending 22 January 2010.

COMMENTARY

FSA CHAIRMAN CALLS FOR CLOSE ENGAGEMENT BETWEEN ACCOUNTING STANDARD SETTERS AND PRUDENTIAL REGULATORS OF BANKS

The Financial Services Authority (FSA) Chairman, Lord Turner, has called for close engagement between global accounting standard setters and those responsible for prudential regulation of the banking sector to address issues arising from the unique systemic nature of banks.

Speaking at a conference hosted by the Institute of Chartered Accountants of England and Wales in London, Adair Turner, said: "No other sector of the economy is remotely comparable to banking in its capacity to be a driver of economic volatility rather than a victim of it."

As a result, he argued that banks must be viewed differently from any other sector of the economy, including the rest of the financial sector, and that accounting standards relevant to banks need to reflect these differences.

He highlighted two aspects of existing bank accounting practice which contribute to the problem of pro-cyclicality and are, therefore, intrinsically tied to macro-prudential and macro-economic concerns:

- The accounting treatment of loan losses within the banking book. This bases loan loss provisions on evidence of already current credit impairment and does not allow for reasonable judgements on future potential losses.
- The 'fair value' valuation approach (predominantly 'mark-to-market') in the trading book, which recognises unrealised gains or losses and which, especially when applied to illiquid securities, can drive harmful volatility in both upswings and downswings.

Faced with these complex considerations, the FSA's preference would be:

- Allow the banking book to reflect a more forward looking approach to loan losses.
- Limit the use of fair value accounting in the income statement to the areas of the trading book where it is most appropriate and, in particular, to trading activities in markets likely to remain highly liquid in nearly all circumstances.

Source: FSA Website

CONCERNS ABOUT FIRMS' HANDLING OF CLIENTS' MONEY AND ASSETS

The FSA has sent a letter and report to the Chief Executive Officers of major insurance brokers and investment firms which are able to hold money or assets on behalf of clients. The letter draws attention to the FSA's concerns over the handling of clients' money and assets.

It follows a letter sent to firms in March 2009, which explained the obligations a firm has to protect clients' money and assets and set out the FSA's intention to conduct further firm visits during 2009. Subsequently the FSA visited a range of firms and found a number of failings. As a result, the FSA took the decision to write to Chief Executives with an accompanying report containing details of visit findings, and highlighting some of the weaknesses discovered. These included:

- Poor management oversight and control.
- Lack of establishment of trust status for segregated accounts.

- Unclear arrangements for the segregation and diversification of clients' money.
- Incomplete or inaccurate records, accounts and reconciliations.

The FSA has already taken measures against a number of the firms that it visited, including referring two firms to enforcement, freezing a firm's assets and commissioning skilled persons reports.

Source: FSA Website

GENERAL INSURANCE AND TREATING CUSTOMERS FAIRLY

The FSA have observed that changing weather patterns may lead to higher and more frequent claims in buildings and contents insurance.

In the fact sheet, FSA outline some areas for general insurers to consider to make sure they give their customers clear and accurate information about the scope of what is covered and any significant exclusions. Some of the FSA's findings suggest insurers may not be treating customers fairly in this aspect of their business. In particular, they identified two key areas that insurers should consider to make sure they are giving their customers clear and accurate information. They should:

- Use clear and unambiguous language
- Highlight the significance of lapsing a policy

General Insurers have been asked to:

- Review the wording in the questions they ask customers to determine their eligibility for cover (either in your call centre script, online questionnaires or equivalent) and review policy terms and conditions to make sure the wording is clear and unambiguous.
- Make sure at the time of renewal they consider how to make flood-affected customers aware of the risks of allowing a policy to lapse in a clear and fair way.
- Update their FSA supervisor on any actions the firm has taken on the issues raised in the factsheet.

Source: FSA Website

ZERO TOLERANCE POLICY REQUIRED AGAINST FRAUD

Commenting on the publication of the National Fraud Authority Annual Fraud Indicator, which shows that fraud costs the UK over £30 billion a year, Nick Starling, the Association of British Insurers (ABI) Director of General Insurance and Health, said: "Fraud costs every family in the UK. In these tough economic times, the last thing people need is to be paying for fraudulent activity. Dishonest insurance claims alone cost around £2 billion year, which adds on average an extra £44 a year to every household's general insurance budget. The insurance industry's zero tolerance policy towards fraud means we are making it harder than ever for cheats to succeed, and detecting more of the fraud that is committed. Today's report shows that such a policy is needed by all agencies involved in tackling fraud, to protect potential victims better and reduce the financial cost to honest UK households."

John Beadle, a member of the board of the Insurance Fraud Bureau (IFB), set up in 2006 to combat organised insurance fraud, said: "Insurance fraud is not a victimless crime and, in the case of 'crash for cash' scams, innocent lives can be put risk. The insurance industry is no longer an easy target and takes this criminal activity very seriously. Through working closely with law enforcement agencies, the IFB has been instrumental in over 300 arrests and this drive will continue.

He urged anyone with information on insurance fraud to call the free and confidential Cheatline on 0800 328 2550, or report online at: www.insurancefraudbureau.org/report.

Source: ABI Website

GROSS LENDING UP 14% IN DECEMBER 2009

Gross mortgage lending reached an estimated £13.7 billion in December, a 14% rise from £12.1 billion in November and up 3% on December 2008, according to the Council of Mortgage Lenders (CML).

This is the first time the annual monthly comparison has been in positive territory since October 2007. However, other than in 2008, this is still the lowest figure for December since 2001 (£13.4 billion).

Lending totalled £39.1 billion in the fourth quarter, up slightly from £39 billion in the previous quarter but down by 14% on the last three months of 2008. There is typically a 6% fall between the third and fourth quarter.

For 2009 as a whole, lending totalled £143.7 billion, slightly above our annual forecast of £141 billion. However, this is down 43% from £253 billion in 2008 and the lowest annual total since 2000 (£119.8 billion).

CML economist Paul Samter observed: "The December figure is surprisingly strong as there is typically a small decline in the month. Evidence suggests that the rise was driven by a surge in house purchase completions – as remortgaging still remains exceptionally weak. The most likely explanation is that buyers of cheaper property wanted to complete their transactions before the end of the year to beat the end of the stamp duty holiday. If there has been a 'bunching' of sales to beat the rise, mortgage lending may see a larger than usual seasonal drop-off in the early part of 2010. But there is every reason to expect a gradual improvement in the latter part of the year. With a gradual pickup in economic growth and wider access to credit, 2010 will almost certainly be a better year in the mortgage market than 2009."

Source: CML Website

STANDARDISING PPI COMPLAINT FORMS

As part of its work on Payment Protection Insurance (PPI), the Ombudsman has hosted a forum for consumer groups, claims-management companies and financial businesses to discuss proposals for standardising PPI complaint forms. Results are awaited.

Source: FOS Website

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