



RWA Solutions Summary & Commentary on: Financial Conduct Authority Communication Documents

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Terence joined RWA in 2008, after spending 6 years as Group Compliance Manager with a large Manchester plc GI broker where he was responsible for FSA compliance for 10 offices.

Terence qualified as a Fellow of the Compliance Institute in 2006, has previously chaired the BIBA Compliance Forum and served on the BIBA Manchester regional executive.

Terence is also Chairman of the APCC (Association of Professional Compliance Consultants).



Solutions



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Consultation Papers

CP18/18: Guidance on regular premium PPI complaints and recurring non-disclosure of commission

Published: 04/07/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-18-guidance-regular-premium-ppi-complaints-and-recurring-non-disclosure-commission>

In March 2017, the FCA made rules in relation to the Supreme Court judgment in Plevin which say that a lender's failure to disclose at point of sale a large commission payable out of the PPI premium can make the lender's relationship with the consumer unfair under the Consumer Credit Act.

The proposed new guidance deals with an uncertainty that has emerged since the rules were made. The guidance clarifies that firms should assess commission disclosures not only at the point of sale but on an on-going basis, and that this should be assessed under our general (non-PPI specific) complaint handling rule (DISP 1.4.1R).

This will help ensure fair and consistent outcomes for regular premium PPI complaints.

This is of no significant interest to the General Insurance Broker/Intermediary.

Consultation Papers

CP18/19: Introducing the Directory **Published: 04/07/2018**

<https://www.fca.org.uk/publications/consultation-papers/cp18-19-introducing-directory>

The Directory will include information available through the FS Register, as well as information about a wider group of individuals. CP18/19 sets out the proposals for how the FCA plans to do this following commencement of the SM&CR. They are seeking feedback on:

- which individuals to include on the Directory
- what information they should publish about each person
- when firms need to submit and update information about their employees

Their aim is to help protect consumers and firms by making it easier to check whether individuals work for an authorised firm.

These proposals are designed to make the Directory user-friendly for consumers and firms. It will also draw on information published on the FS Register making it easier to search the FS Register.

Alongside the consultation paper, they have published a basic prototype version of the Directory. This is interactive so you can see how the Directory could work and leave feedback. The hand icons show the interactive elements.

[Prototype link](#)

Password WyDk4w947@;

If you experience issues accessing the prototype due to network restrictions, you can view the screens in PDF format.

Following the consultation, the FCA will user test the design with firms and consumers to make sure it is user friendly.

This is of interest to all firms.

Consultation Papers

CP18/20: Loan-based ('peer-to-peer') and investment-based crowdfunding platforms: Feedback on our post-implementation review and proposed changes to the regulatory framework

Published: 27/07/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-20-loan-based-peer-peer-and-investment-based-crowdfunding-platforms-feedback-our-post>

In 2016 the FCA launched a post-implementation review (PIR) of regulation of the crowdfunding sector (which covers investment-based and loan-based crowdfunding). This paper summarises FCA findings, and consults on proposed new rules and guidance for loan-based crowdfunding platforms (also known as 'peer-to-peer' platforms).

This is of no interest to the general insurance broker.

CP18/21: General standards and communication rules for the payment services and e-money sectors.

Published: 01/08/18

<https://www.fca.org.uk/publications/consultation-papers/cp18-21-general-standards-communication-rules-payment-services-e-money-sectors>

The FCA is consulting on proposals to apply existing rules and guidance that clarify their expectations on conduct and communication across the payment services and e-money sectors. They are also proposing new standards for the communication of payment services and e-money involving a currency conversion.

This is of no interest to the general insurance broker.

CP18/22: Handbook changes to reflect the application of the EU Securitisation Regulation and the amendment to the Capital Requirement Regulation

Published: 01/08/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-22-handbook-changes-reflect-application-eu-securitisation-regulation-and-amendment-crr>

The Securitisation Regulation and related amendment to the Capital Requirements Regulation (CRR) came into effect on 18 January 2018. Most of their provisions will come into effect on 1 January 2019. The FCA is consulting on a number of changes to ensure that the Handbook is consistent with the directly applicable EU Securitisation Regulation and CRR amendment.

This is of no interest to the general insurance broker.

CP18/23: Claims management companies: recovering the costs of regulation and the Financial Ombudsman Service

Published: 20/08/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-23-claims-management-companies-recovering-costs-regulation-and-financial-ombudsman-service>

On 1 April 2019 the FCA will become the regulator of claims management companies (CMCs) established or serving customers, in England, Wales and Scotland. Firms that wish to continue trading from 1 April 2019 will have to register for temporary permission (TP) between 1 January – 31 March 2019. They will subsequently be able to apply for full authorisation.

This consultation paper (CP) explains how they propose to set the fees that will recover costs for setting up the new regulatory regime and for supervising CMCs going forward.

Responsibility for considering complaints about CMCs will also transfer from the Legal Ombudsman Service (LeO) to the Financial Ombudsman Service, so they also set out proposals for recovering the associated transfer costs and the Financial Ombudsman Service's ongoing costs. The FCA does not propose to extend Financial Services Compensation Scheme cover to customers of CMCs at present, but they may review the position in the future if there is evidence of significant consumer harm.

This is of no interest to the general insurance broker.

Consultation Papers

CP18/24: Quarterly Consultation Paper No 22

Published: 07/09/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-24-quarterly-consultation-paper-no-22>

The FCA is proposing to make changes to:

- SUP 16, to update the Gabriel validation rule and FCA guidance on form FSA056 (capital adequacy for APIs) for element 32B (own funds requirement),
- Existing supervisory principles in SUP 1A.3.2G, to replace those principles with the supervisory principles detailed in Chapter 2 of the FCA's Approach to Supervision

This is of no interest to the general insurance broker.

CP18/25: Approach to final Regulatory Technical Standards and EBA guidelines under the revised Payment Services Directive (PSD2)

Published: 17/09/2018

<https://www.fca.org.uk/publications/consultation-papers/cp18-25-approach-final-regulatory-technical-standards-and-eba-guidelines-under-revised-payment>

The FCA is consulting on new rules and guidance to implement the revised Payment Services Directive (PSD2). They propose changes to reflect final regulatory technical standards on security and new fraud reporting requirements published by the European Banking Authority. They are also proposing new complaints reporting rules about authorised push payment (APP) fraud.

This is of no interest to the general insurance broker.

Consultation Papers

CP18/26: Claims management companies: applying the Senior Managers and Certification Regime to claims management companies **Published: 20/09/2018**

<https://www.fca.org.uk/publications/consultation-papers/cp18-26-claims-management-companies-applying-senior-managers-and-certification-regime-claims>

On 1 April 2019, the FCA will become the regulator of CMCs established in, or serving customers in England, Wales and Scotland.

They have consulted on how they propose to regulate CMCs in CP18/15, published in June 2018. They are now consulting on how the Senior Managers and Certification Regime (SM&CR) will apply to CMCs. Firms should read the Consultation Paper for further information about when the SM&CR may apply to them and what action they will need to take.

This is of no interest to the general insurance broker.



Discussion Papers

DP 18/4: Building the UK financial sector's operational resilience **Published: 05/07/2018**

<https://www.fca.org.uk/publications/discussion-papers/dp-18-4-building-uk-financial-sector-operational-resilience>

Operational resilience failures pose a risk to the supply of vital services on which the real economy depends. They can also threaten the ongoing viability of firms and cause harm to consumers and market participants.

Here the FCA highlight the risks posed by cyber-attacks and other disruptive operational incidents, and the financial system's increasing reliance on and connectedness through technology and data.

In this complex and changing environment, they want firms to be able to withstand, absorb and recover from disruptive operational incidents. Firms should manage their responses to these incidents in a way which considers the needs of those affected, including customers.

This discussion paper is part of an ongoing collaboration and coordinated approach with the PRA and Bank aimed at strengthening firms' operational resilience.

Firms are already subject to requirements for risk management and business continuity. This discussion paper reminds firms of existing requirements and introduces new ideas:

- planning for disruptive events as well as seeking to prevent them
- focusing on the wider impact of disruptive events, not just on restoring systems and processes
- mapping products and services to underlying systems and processes
- identifying the likely impact on customers and market participants and on the firm's own viability
- developing a more standardised and consistent approach to setting tolerance levels for disruption to key products and services (impact tolerance)

This is of interest to all firms.

Discussion Papers

DP18/5: A duty of care and potential alternative approaches **Published: 17/07/2018**

<https://www.fca.org.uk/publications/discussion-papers/dp18-5-duty-care-and-potential-alternative-approaches>

In the Mission 2017, the FCA committed to produce a Discussion Paper to explore the potential merits of a duty of care as part of a Handbook Review following the UK's exit from the EU in 2019. They stated that it would be difficult to make extensive changes to the FCA Handbook at the same time as undertaking the major overhaul needed to put the EU Withdrawal legislation into effect.

They recognise the wider debate on this issue, including feedback received on this topic following the Future Approach to Consumers 2017. Launching this Discussion Paper now will help them understand more fully what outcomes a New Duty might be able to achieve and what a New Duty for firms in financial services might do to enhance behaviour in the financial services market.

They are publishing this Discussion Paper to:

- Help them better understand whether there is a gap in the regulatory and legal framework, or the way they apply it in practice, that could be addressed by introducing a New Duty.
- Better understand and consider possible alternative approaches that might address stakeholders' concerns.
- Understand what a New Duty for firms might do to enhance good conduct and culture in financial services, including how this could influence consumer outcomes, alongside the Senior Managers and Certification Regime (SM&CR).
- Assess whether change is desirable and, if so:
 - What form it could take
 - How it would work in practice alongside the current framework
 - What consequences it would have for consumers, firms and the FCA.

They ask a number of questions on whether a New Duty (duty of care or other change) would provide additional consumer protection, including with regard to redress for consumers.

This is of interest to all firms.

Discussion Papers

DP18/6: Price discrimination in the cash savings market

Published: 25/07/2018

<https://www.fca.org.uk/publications/discussion-papers/dp18-6-price-discrimination-cash-savings-market>

On 25 July 2018, they published a Discussion Paper on price discrimination in the cash savings market. They are concerned that competition is not working well in the cash savings market, particularly for longstanding customers. They are, therefore, opening a discussion on options to address the harm, including the introduction of a basic savings rate (BSR).

This is of no specific interest to the general insurance broker.

DP18/7: Consumer Credit Act Review: interim report

Published: 02/08/2018

On 2 August 2018, we published an interim report on the review of the retained provisions of the Consumer Credit Act 1974 (CCA).

<https://www.fca.org.uk/publications/discussion-papers/dp18-7-consumer-credit-act-review-interim-report>

The FCA is required by Parliament to review the CCA. The review must be completed by 1 April 2019 and must be preceded by an interim report.

This interim report sets out the FCA's initial views on whether the repeal of CCA provisions would adversely affect the appropriate degree of protection for consumers, and invites stakeholders to comment. It is not intended to be a draft of the final report.

This is of no specific interest to the general insurance broker.

Policy Statements

PS18/13: FCA regulated fees and levies 2018/19

Published: 09/04/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-13-fca-regulated-fees-and-levies-2018-19>

The FCA is publishing the 2018/19 periodic regulatory fees and levies for the:

- Financial Conduct Authority (FCA)
- Financial Ombudsman Service general levy
- Money Advice Service
- Pension Wise Service
- Single Financial Guidance Body
- Illegal money lending levy

They also publish our feedback on the responses received to the consultation on the draft fees and levies rules in CP18/1

This is of interest to all firms.

PS18/14: Extending the Senior Managers and Certification Regime to FCA firms – Feedback to CP17/25 and CP17/40, and near-final rules

Published: 04/07/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-14-extending-senior-managers-certification-regime-to-fca-firms>

FCA rules are near-final, as these are subject to commencement regulations to be made by HM Treasury. They do not expect to make any significant changes to the near-final rules. The FCA believes that holding individuals to account is a key component of effective regulation. The Senior Managers and Certification Regime (SM&CR) currently applies to banking firms and, following the Bank of England and Financial Services Act 2016, is now being extended to FCA solo-regulated firms.

It replaces the current Approved Persons Regime, changing how individuals working in financial services are regulated. The aim of the new SM&CR is to reduce harm to consumers and strengthen market integrity by making individuals more accountable for their conduct and competence.

As part of this, the SM&CR aims to encourage a culture of staff at all levels taking personal responsibility for their actions make sure firms and staff clearly understand and can demonstrate where responsibility lies.

This Policy Statement sets out near-final rules for the extension of the SM&CR.

This is of interest to all firms.

Policy Statements

PS18/15: Extending the Senior Managers & Certification Regime to insurers – Feedback to CP17/26 and CP17/41 and near-final rules **Published: 04/07/2018**

<https://www.fca.org.uk/publications/policy-statements/ps18-15-extending-senior-managers-certification-regime-to-insurers>

FCA rules are near-final, as these are subject to commencement regulations to be made by HM Treasury. We do not expect to make any significant changes to the near-final rules.

The FCA believes that holding individuals to account is a key component of effective regulation. The Senior Managers and Certification Regime (SM&CR) currently applies to deposit takers and, following the Bank of England and Financial Services Act 2016, is now being extended to insurers.

It replaces the current Approved Persons Regime, changing how individuals working in financial services are regulated. The aim of the new SM&CR is to reduce harm to consumers and strengthen market integrity by making individuals more accountable for their conduct and competence.

As part of this, the SM&CR aims to encourage a culture of staff at all levels taking personal responsibility for their actions make sure firms and staff clearly understand and can demonstrate where responsibility lies

This Policy Statement sets out near-final rules for the extension of the SM&CR.

This is of no direct relevance to insurance brokers, although may have some interest to MGAs and wholesalers.

Policy Statements

PS18/16: The Duty of Responsibility for insurers and FCA solo-regulated firms Published: 04/07/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-16-duty-of-responsibility>

Since May 2016, the Duty of Responsibility has applied to Senior Managers of banking firms. It will also apply to Senior Managers of insurers and FCA solo-regulated firms when the Senior Managers and Certification Regime is extended.

Under the Duty of Responsibility, the FCA can take enforcement action against Senior Managers if there was a contravention of a relevant requirement by the Senior Manager's firm at the time of the contravention or during any part of it, the Senior Manager was responsible for the management of any of the firm's activities in relation to which the contravention occurred and/or the Senior Manager did not take such steps as a person in their position could reasonably have been expected to take to avoid the contravention occurring or continuing

This paper sets out how the FCA will apply the Duty of Responsibility to insurers and solo-regulated firms once the Senior Managers and Certification Regime is extended.

This is of interest to all firms.

PS18/17: The European Money Market Funds (MMF) Regulation Published: 11/07/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-17-european-money-market-funds-mmf-regulation>

In this Policy Statement, the FCA respond to feedback arising from CP18/4 and publish final rules amending the Handbook to ensure consistency with the requirements of the EU Money Market Funds (MMF) Regulation. They also apply fee schedules to enable them to recover the cost of authorising and supervising money market funds under the Regulation.

This is of no relevance to general insurance brokers.

Policy Statements

PS18/18: Industry Codes of Conduct and Discussion Paper on FCA principle 5 Published: 20/07/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-18-industry-codes-conduct-discussion-paper-fca-principle-5>

In November 2017, the FCA consulted in CP17/37 (PDF) on proposed handbook guidance and policy for formally recognising industry codes of conduct that cover unregulated activities.

This Policy Statement responds to the feedback received and publishes the final handbook guidance.

This is of no significant relevance to general insurance brokers.

PS18/19: Assessing creditworthiness in consumer credit Published: 30/07/2018

<https://www.fca.org.uk/publications/policy-statements/ps18-19-assessing-creditworthiness-consumer-credit>

In this Policy Statement the FCA respond to feedback arising from CP17/27 (PDF) and publish final rules and guidance on assessing creditworthiness in consumer credit.

In particular, the changes clarify:

- the distinction between affordability and credit risk
- the factors that should be used when deciding the proportionality of assessments
- the role of income and expenditure information
- our expectations around firms' policies and procedures

This is of interest to all firms.



Find out how we can work with you.

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