

STOP PRESS



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As the New Year begins and the FCA contemplates its future, the compliance task for UK firms does not get any easier. Transparency remains a major concern, with new rules on renewal information for consumers coming into force in April and continuing speculation about commission disclosure. This edition of Stop Press looks at some of the latest news and provides a reminder that the FCA is not the only show in town – the Competition and Markets Authority and the Information Commissioner are just two of the other forces to be reckoned with.

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A reminder about Protected No Claims Bonus Compliance Statements

Private motor insurance providers, including insurance intermediaries, should submit their Annual PMI Compliance Statement to the CMA by 1 February 2017. The statement must contain a declaration that the firm has complied with the terms of the Order (see link below) and include tables of Average NCB Discounts from each individual insurer and subset of products. The current requirement is for firms to submit their Compliance Statement to the CMA by 1 February each year.

Aside from the Annual PMI Compliance Statement, the CMA also requires firms to provide customers with certain information when making any offer of NCB protection. This includes the "implied price" of the protection; tables showing the average percentage discount scale along with the insurer's Step Back formula; and a warning that NCD Protection does not protect the overall price of the policy. (See Hot TopICS of 20.05.2016.)

The detailed requirements, including the wording for the Annual Compliance Statement, are in the CMA Order: <https://assets.digital.cabinet-office.gov.uk/media/5509879f40f0b613e6000029/Order.pdf>

Insurer fined for failing to keep customers' information safe - ICO January 2017

The Information Commissioners Office (ICO) has fined Royal & Sun Alliance Insurance PLC (RSA) £150,000 following the loss of the personal information of nearly 60,000 customers. An ICO investigation looked at the theft of a hard drive device containing 59,592 customers' names, addresses and bank account details including account numbers and sort codes. The device also held limited credit card details of 20,000 customers, although CVC numbers and expiry dates were not affected.

ICO enforcement officers found that RSA did not have the appropriate measures in place to protect financial information by preventing the theft at its offices in West Sussex from happening. The device was stolen from company premises either by a member of staff or a contractor, the information on it was not encrypted and the device has never been recovered.

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Steve Eckersley, ICO Head of Enforcement said:

“Customers put their trust in companies to keep their information safe, particularly financial information. When we looked at this case we discovered an organisation that simply didn’t take adequate precautions to protect customer information. Its failure to do so has caused anxiety for its customers not to mention potential fraud issues. There are simple steps companies should take when using this type of equipment including using encryption, making sure the device is secure and routine monitoring of equipment. RSA did not do any of this and that’s why we’ve issued this fine.”

RSA has issued an apology to customers and put remedial measures in place.

Fake FCA emails - FCA 5 January 2017

The FCA has warned that an email has been sent which appears to be from webmaster@fca.org.uk. This email was not sent by the FCA and recipients should delete the email without opening. An email entitled "FCA Regulation 2017" which appeared to be from press.office@fca.org.uk was also not sent by the FCA. Recipients should again delete the email without opening.

FCA’s future Mission: key themes from feedback so far – FCA 3 January 2017

The FCA has set out the main emerging themes from “Our Future Mission” project, launched on 26 October 2016, and invited further feedback. The main issues raised by respondents, so far, are:

Desire for clarity and sense of direction - Respondents are keen on a clearer rationale for decisions and what the regulator chooses to do and not to do. The FCA asks; “How can we better communicate the choices we make?”

Vulnerable consumers - Respondents largely agree with affording more protection to vulnerable consumers but have different views on who a vulnerable consumer is and emphasise the need for clear definitions. The FCA says; “Who should be included in our definition of a vulnerable consumer? What should more protection look like? Are there vulnerable consumers in the wholesale space? If so, who?”

Rules vs principles - Some respondents are keen on clear sets of principles for business rather than prescriptive rules while others prefer more clarity on existing rules as they feel these are often too vague. The FCA asks; “In which circumstances are prescriptive rules or higher level principles more appropriate?”

Engagement with firms - Respondents think the FCA should adopt a more active role in sharing lessons learned and good practice. Respondents would like more tailored communications that illustrate risks for their particular market. The FCA asks; “How can we best engage with 56,000 firms taking into account their different requirements and needs?”

Feedback is requested by 26 January 2017, via this FCA form: <https://www.fca.org.uk/mission-response-form>

BIBA launches “unrated insurers” facility - BIBA 21 December 2016

BIBA has launched a new online facility for its members that will help with their due diligence when considering whether to use unrated non-life insurers. The facility, the BIBA Litmus Test Report, was designed with the analytical support of Litmus Analysis and uses data from A.M. Best to present a number of key financial ratios for a number of unrated insurers most often used by BIBA members. Steve White, BIBA Chief Executive said: “At present there is no legal or regulatory requirement for an insurer to have a rating, nor is there a legal or regulatory requirement for an insurance broker to use only rated carriers and this online tool will give valuable support for our

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members when deciding whether the financial standing of an insurer they are considering placing business with is sufficiently robust or not." The BIBA Litmus Test Report will not give a rating to insurers in the same way as the well-known credit rating organisations. It provides financial ratios including underwriting, investment and reserve leverage percentages as well as underwriting profitability and liquidity. An initial coverage of 30 insurers can be checked using a simple search facility. It is anticipated that insurer coverage will evolve as BIBA responds to the needs of its members, market practice changes and capacity shifts.

FSCS pays over £26m following collapse of Enterprise – FSCS 22 December 2016

The FSCS has been paying claims either direct to policyholders or through their broker or finance company, after the liquidator cancelled Enterprise Insurance policies on 26 October 2016. It has now paid over £26m in compensation to more than 30,000 policyholders. This includes just over £17.6m for motor policy claims, a further £1m on non-motor policy claims and more than £7.8m for return of premium claims. FSCS is continuing to work closely with the liquidator, brokers and finance companies to ensure the remaining policyholders can be compensated as soon as possible.

FSCS Chief Executive, Mark Neale said; "FSCS is here to protect consumers. We are continuing our work to ensure policyholders are not out-of-pocket. For most policyholders this involves making return of premium payments via their broker, or finance company. They in turn, are transferring their Enterprise business to an alternative insurer."

Enstar is run-off manager for Gable - Insurance Age 20 December 2016

Batliner Wanger Batliner, the firm appointed by the court in Liechtenstein to liquidate Gable Insurance AG, has selected Enstar (EU) as run-off manager for the unrated insurer. In its role, effective 16 December, Enstar is responsible for all claims management and technical operations of Liechtenstein-based Gable. Enstar is described as "a multi-faceted insurance group". It is most well-known for acquiring legacy businesses and has taken on 75 companies and portfolios since being formed in 2001. The liquidators confirmed that Enstar will become the custodian of all relevant physical and electronic records of Gable Services (London) and Hogarth Underwriting Agencies (which is owned by Gable CEO William Dewsall). All authority to pay agreed claims has been withdrawn with immediate effect from all claims handling agents/representatives of Gable. The liquidator said there should be no netting off of premiums or any other sums of any nature collected by brokers or claims handling agents/representatives on behalf of Gable. Brokers and others who have collected any premiums, reinsurance recoveries or other amounts on behalf of Gable "should remit such amounts to the appointed liquidator immediately". In addition, any funds held in escrow accounts or by brokers and others cannot be used to make any payments for claims, fees and costs or any other payments of any nature.