



Compliance Moving Forward

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Presentation for the Insurance Institute of Manchester
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The Specialist Training and Compliance Company for the General Insurance Industry

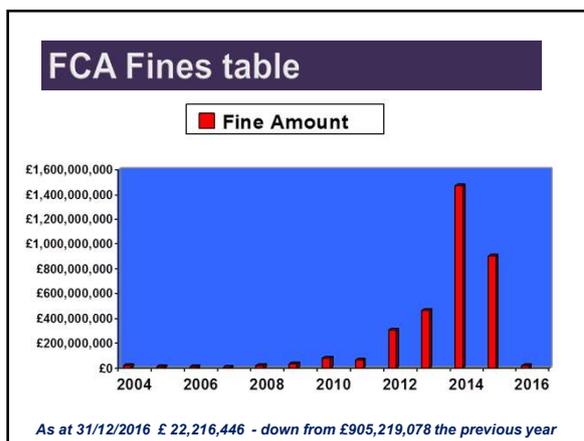
Objectives:

- Delegates will be able to identify:
- Major Changes from 2016 including:
 - The Insurance Act
 - The Complaints' Rules
 - The Sale of Add-ons
 - The Brexit Decision
- Major Changes from 2017 including:
 - New rules on renewals
 - The Insurance Distribution Directive
 - Transfer of CMR from the MoJ to FCA
 - Senior Managers Regime



What happened in 2016

- Review of the year 2016
 - Measuring the Value of Insurance Policies (March 2016)
 - Ban on the sale of add-ons on opt-out basis (April 2016)
 - Andrew Bailey New CEO of the FCA appointed (April 2016)
 - Complaints Rules changes (June 2016)
 - Appointed Representatives (July 2016)
 - NCB Protection changes (Aug 2016)
 - The Insurance Act (Aug 2016)
 - Client Money Update (Aug 2016)
 - Insurance Brokers Professional Indemnity Insurance (Dec16)

Measuring the Value of Insurance Policies

- FS16/1: Feedback Statement on DP15/4 – General insurance value measures



Ban on opt-out selling of Add-ons

- In September 2015 the FCA announced new rules for Add-ons when they published **General Insurance Add-ons Market Study – Remedies: banning opt-out selling across financial services and supporting informed decision-making for add-on buyers**
- These rules came into effect on 1st April 2016 and affect both Consumer and Commercial Customers



Ban on opt-out selling of Add-ons

- ▶ This Policy Statement defined Add-ons as:

“A good, service or right of any description, whether or not financial in nature, that a customer may obtain (or not as the case may be) at his or her election in connection with or alongside a non-investment insurance contract”.

- ▶ This meant that some optional areas of cover became seen as Add-ons by the FCA, such as Accidental Damage cover on a Household policy



Ban on opt-out selling of Add-ons

- ▶ The main rules announced banned Add-ons being included on an opt-out basis and ensured that Customers are given sufficient information about these products
- ▶ The rules meant that Customers had to **“actively elect”** to purchase the product rather than receiving them automatically



Ban on opt-out selling of Add-ons

You should have already ensured the following:

- ▶ Customers **actively elect** to purchase each Add-on
- ▶ Add-ons previously sold on an opt-out basis are sold on an opt-in basis at the next Renewal after the changes came into force – which is especially important for auto-Renewal
- ▶ Increased information is given about the products
- ▶ The annual cost is given for each product



Ban on the Sale of Add-ons

You should have already ensured the following:

- ▶ The most common Add-ons are introduced earlier in the sale
- ▶ There are no pre-ticked boxes referring to additional products on your websites



New CEO of the FCA

FCA spent over £200,000 recruiting Andrew Bailey



Complaints' Rules Changes

- ▶ Rules changed from 30th June 2016
- ▶ By now you should be using the Summary Resolution Communication letter
- ▶ You should be recording all complaints settled informally within 3 days and should have changed your internal procedures and complaints logs
- ▶ You should be showing all complaints on your Gabriel return
- ▶ Your staff should all know the correct definition of a complaint
- ▶ Your website should show the FOS website address on where you mention complaints



Appointed Representatives

- ▶ FCA contacted 190 firms who had Appointed Reps
- ▶ They selected 15 for in depth review
- ▶ They found serious failings and five brokers referred to Enforcement
- ▶ Follow up work taking place with more brokers



Appointed Representatives

Main findings from the report:

- ▶ Over half the firms investigated had serious misunderstandings about their responsibilities for Appointed Representatives and had underestimated both the degree of control required and the associated costs.
- ▶ A third of the firms investigated were referred to enforcement and will face regulatory action
- ▶ Two firms were told to stop sales through their ARs
- ▶ Two section 166 Reports



NCB Protection Changes

- ▶ On 1st August 2016 the new NCB Protection rules came into force, following the Competitions & Markets Authority (CMA) investigation into Motor Insurance
- ▶ The rules require firms providing Private Car Insurance where NCB Protection is included to inform Customers of the cost, and the implications of one or more Claims
- ▶ This must be done using prescribed wordings either in writing or over the telephone and an information sheet



NCB Protection Changes

- ▶ All firms providing NCB Protection for Private Car Insurance should now have their new procedures in place
- ▶ Firms also must now report to the CMA on an annual basis (or quarterly for PCWs)



The Insurance Act

- ▶ The major regulatory change in 2016 was when the Insurance Act came into force on 12th August
- ▶ This new legislation affected Disclosure for Commercial Customers, Warranties and Fraudulent Claims
- ▶ The Act introduced the concept of "*a fair presentation of the risk*" which reduced the Duty of Disclosure on a Commercial Insured when disclosing risk information and answering questions



The Insurance Act

- ▶ The new legislation set out new remedies for Insurers in the event of breaches of the amended Duty of Disclosure
- ▶ These new remedies are largely similar to those found in CIDRA
- ▶ The Act also prevented Insurers from using a Breach of Warranty to repudiate a Claim unless it is specifically led to the Loss
- ▶ Fraudulent Claims were addressed by codifying best practice in law



The Insurance Act

- ▶ All firms dealing with Commercial Customers should have amended their Terms of Business documents, procedures when asking questions, standard letters and templates



Client Money Update

- ▶ FCA statement on Consultation Paper 12/20: Review of the client money rules for insurance intermediaries
- ▶ The FCA will not pursue any rule changes to CASS 5 without a new consultation.
- ▶ The existing CASS 5 rules remain in place and general insurance intermediaries holding client money or operating under risk transfer agreements are required to comply with these.



Insurance Brokers PII

- ▶ The FCA published a review of General Insurance Intermediaries' professional indemnity insurance)
- ▶ They sampled 200 brokers' PII policies
- ▶ Firms selected at random
 - Sample included brokers, Lloyd's brokers, MGAs, trade bodies and insurers where they were acting as brokers



Insurance Brokers PII

Some of the findings:

- ▶ About 30 insurers active in the market
- ▶ 90% were UK based
- ▶ 4 brokers had cover over £100,000,000
- ▶ 4 brokers had cover between £50-75,000,000
- ▶ Only 5 brokers didn't have the right level of cover
- ▶ There were some strange wordings and exclusions



Insurance Brokers PII

FCA Expectations

- ▶ The FCA expect you to review your policies and make sure they comply with regard to:
 - Policy limits
 - Excess/capital
 - FOS awards
 - Cover for ARs
 - No out of date references
 - No incorrect exclusions.



What's coming in 2017/2018



What's coming in 2017/2018

- ▶ Removal of the Initial Disclosure Document (March 2017)
- ▶ Consumer Renewals Rules (April 2017)
- ▶ Consultation on the Insurance Distribution Directive
- ▶ Consultation on the Senior Managers Regime
- ▶ Transfer of CMR from MoJ to FCA
- ▶ Brexit



IDD document – 27th March 2017

- ▶ The template is withdrawn from 27th March 2017
- ▶ You can no longer use the Key Facts Logo on the IDD
- ▶ The FCA want to move away from “ tick box” approach to compliance



Consumer Renewals Rules

- ▶ In August the FCA issued “*Policy Statement: Increasing transparency and engagement at renewal in general insurance markets*”
- ▶ They want to encourage shopping around and engagement – especially for older Customers who were found to be more likely to renew the same policy year on year which can result in them not getting a good deal



Consumer Renewals Rules

- ▶ The Renewal Rules apply from 1st April 2017



Consumer Renewals Rules

- ▶ Who do the rules apply to?
 - Intermediaries and Insurers
- ▶ Which Customers do they apply to?
 - Consumers only
- ▶ What Policies do they apply to?
 - Policies of at least 10 months in duration that are annually renewable
 - Main Product and Add-Ons



Consumer Renewals Rules

- ▶ When writing to Customers at Renewal a firm must either:
 - Show the **Premium*** the Customer paid at last Renewal
 - Or if a Mid-Term Adjustment has occurred, show what the annual Premium would have been based on the rate applied at the time of the Adjustment
- *Premium here means the amount paid to Insurer



Consumer Renewals Rules

- ▶ And also include two statements:
 - That the Customer should check that the level of cover offered by the Renewal is appropriate for their needs
 - That if the Customer is able, and if they so wish, that they can compare the prices and levels of cover offered by alternative providers
- (this can be a positive message)



Consumer Renewals Rules

- ▶ Another rule applies where the proposed Renewal is the fourth or more consecutive Renewal with the firm
- ▶ This means for Intermediaries, even if the Customer has changed policies – this rule must be followed
- ▶ This is probably the most unpopular of the new rules



Consumer Renewals Rules

- ▶ The rule states a firm must include the following prescribed wording:

"You have been with us a number of years. You may be able to get the insurance cover you want at a better price if you shop around"



Consumer Renewals Rules

- ▶ What do you need to do?
 - Make sure you have records of what the annualised Premiums are when making Mid-Term Adjustments
 - Consider the implications on your business model, products and Customers, and raise queries with us if necessary
 - Speak to software houses
 - Amend Renewal letters – choosing an appropriate wording



Insurance Distribution Directive

- ▶ Comes into force on 23rd Feb 2018
- ▶ FCA will consult in 2017
- ▶ Replaces the Insurance Mediation Directive and widens it to include "distribution"
- ▶ Direct Writers brought into the same scope



Insurance Distribution Directive

- ▶ **General principle**
 - ▶ there will be an obligation on Member States to ensure that, when carrying out distribution, insurance intermediaries, insurance and reinsurance undertakings always act honestly, fairly and professionally in accordance **with the best interests** of their customers



Insurance Distribution Directive

- ▶ **Professional development**
- ▶ There is a requirement for **at least 15 hours of professional training** or development per year for employees of brokers and insurers.
- ▶ Member States may allow evidence of continuous training and development through the successful completion of an exam.



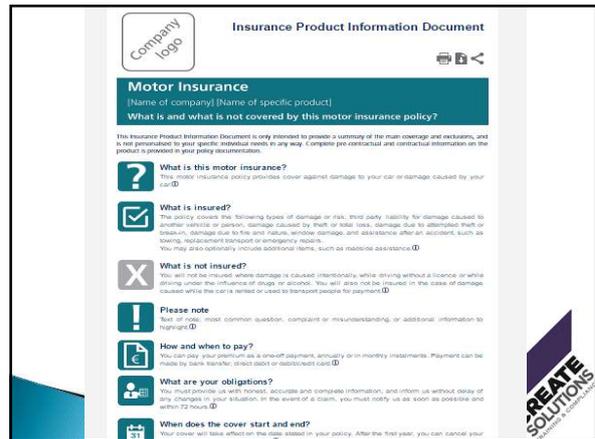
Insurance Distribution Directive

- ▶ **Remuneration** Rules ensuring that brokers, and insurers do not either pay or assess the performance of employees in a way that conflicts with their duty to act in the best interests of customers
- ▶ **Commission** Before a contract is concluded, an broker must disclose to customers the nature and basis (i.e. fee, commission, other type or a combination) of their remuneration. It does not mandate disclosure of the amount of any commission received.



Insurance Distribution Directive

- ▶ **Provision of information** The new requirements are lengthier and, require the customer to be given a standardised insurance product information document (PID), summarising the main features of the proposed contract.

Insurance Distribution Directive

- ▶ **Product oversight and governance** – there are rules requiring insurers, as well as brokers who “manufacture” insurance products for sale to customers, to have processes in place to approve every insurance product and to review it regularly, to ensure that it continues to meet consumer needs and that the distribution strategy remains appropriate. The product approval process must specify an identified target market of customers for each product and ensure that all relevant risks are assessed.



Insurance Distribution Directive

- ▶ **Coverholders** –The information disclosure requirements require Coverholders to provide more information than they do at present, for example, that they are acting on behalf of an insurance undertaking.



Senior Managers Regime

- ▶ Came into force March 2016 in the banking sector
- ▶ Consultations will continue in 2017
- ▶ Will come in for insurance brokers and other firms in 2018 but **the final rules have not yet been published**
- ▶ Designed to raise standards of governance and increase individual accountability
- ▶ The FCA have applied the regime to their own senior management structure



Senior Managers Regime

Likely scope:-

- ▶ Statutory duty to prevent regulatory breaches
- ▶ Regulatory references from previous employer in an agreed format
- ▶ Handover arrangements for new senior managers
- ▶ Governance Mapping
- ▶ Certification regime for important persons in the firm
- ▶ Fewer approved persons
- ▶ Code of conduct for almost everyone



The Certification Regime

- ▶ Firms will have to certify certain employees as being fit and proper to perform certain functions
- ▶ These are known as 'significant harm' or 'certification' functions and mean that the person performing the function will be involved in aspects of the firm's affairs (relating to regulated activity) that might involve a risk of significant harm to the firm or its customers
- ▶ Individuals performing certification functions will not need FCA approval, but they shouldn't perform their function without being certified as fit and proper first (and on an annual basis)
- ▶ The FCA may make some changes to the guidance in FIT



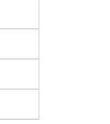
The New Conduct Rules

- ▶ The FCA will apply new conduct rules to:
 - Individuals approved by the FCA as senior managers
 - Individuals covered by the FCA's certification regime
 - All other employees other than those ancillary staff who perform a role that is not specific to the financial services business of the firm.
- ▶ The FCA states that the only employees who would not be caught in scope would be those whose role would be fundamentally the same as it would be if they worked in a non-financial services firm



The New Conduct Rules

Individuals not covered by FCA Conduct Rules	
1. Receptionists	11. Medical staff
2. Switchboard operators	12. Archive Records management
3. Post room staff	13. Drivers
4. Reprographics/Print room staff	14. Corporate Social Responsibility staff
5. Property/facilities management	15. Data controllers and processors under the Data Protection Act
6. Events management	16. Cleaners
7. Security guards	17. Catering Staff
8. Invoice processing	18. Personal assistants, secretaries
9. Audio visual technicians	19. Information Technology Support (i.e. helpdesk)
10. Vending machine staff	20. Human Resources Administrators / processor



The New Conduct Rules

TIER ONE – Individual Conduct Rules

- ▶ Rule 1: You must act with integrity.
- ▶ Rule 2: You must act with due skill, care and diligence.
- ▶ Rule 3: You must be open and cooperative with the FCA, the PRA and other regulators.
- ▶ Rule 4: You must pay due regard to the interests of customers and treat them fairly.
- ▶ Rule 5: You must observe proper standards of market conduct.



The New Conduct Rules

TIER TWO – Senior Management Conduct Rules

- ▶ SM1: You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively.
- ▶ SM2: You must take reasonable steps to ensure that the business of the firm for which you are responsible complies with relevant requirements and standards of the regulatory system.
- ▶ SM3: You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively.
- ▶ SM4: You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice.



The New Conduct Rules

Three Obligations on firms:

- ▶ To make individuals who are subject to the rules aware that this is the case, and train them in how the rules apply to them
- ▶ To notify the regulator when they are aware that or suspect that a person has breached the conduct rules
- ▶ To notify the regulator where they have taken formal disciplinary action against a person for any reason specified by the regulator, including if they suspect or know a person has breached a conduct rule or if they have formally warned, suspended or dismissed an employee as a result of conduct which amounts to a conduct rule breach (within 7 days for a Senior Manager and quarterly for all other staff)



MoJ transfer to FCA

- ▶ No details yet, but will require legislation and consultation will take place in 2017



BREXIT

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