



## GOODWILL

14 January 2008 will see the end of the transitional arrangements provided under Consultation Paper 174. This will be important for firms that are only able to meet their current capital requirement by the inclusion of goodwill.

To date brokers have been able to include the carrying value of goodwill when calculating their firms' capital resources. The FSA had initially wanted to exclude goodwill from capital resource calculations, in order to provide protection to consumers from the possibility of broker insolvency. However, it decided to delay full implementation for three years, primarily as a result of the numbers of brokers with a goodwill element in their accounts.

The key question now is what to do if your firm has not yet taken any action. The best course will depend on the potential deficit caused by goodwill and the long term plans of the business owners. To ensure compliance from January 2008, certain options include:

- Setting up a holding company and transferring the goodwill into it – there is currently no group solvency requirement for insurance intermediaries. This does however assume that there are no recoverability issues in respect of the resultant intercompany balance.
- Injecting additional share capital or subordinated loans, though such loans must comply with specific FSA requirements.
- Meeting any shortfall through current year profits, assuming the firm has traded profitably and achieved adequate results.

In addition to the above, for a firm currently considering buying a business, it is vital to ensure that the enlarged group continues to meet its capital resources requirements post 14 January 2008. The right planning will mean that capital requirements are kept to a reasonable level.

Do talk to any member of the WK Insurance Group if you need any more information.



## INTRODUCTION TO THE WK INSURANCE GROUP

Based in Central London and around the M25, Wilkins Kennedy are ranked within the Top 30 UK accounting firms. Our Insurance Services Group is a multidisciplinary team of industry experts. We work with a wide range of businesses, both regulated and non-regulated, which act as insurance intermediaries or which provide support services within the insurance sector.

Our Insurance Group covers:

- Audit and assurance, including FSA reporting
- Review of RMAR returns and assisting with certain aspects of authorisation, including financial and IT systems review
- Management information systems and reporting
- Corporate finance, including mergers and acquisitions
- Financial due diligence
- Forensic accounting and litigation support
- Corporate insolvency and asset recovery
- Indirect and direct taxes

Details of all our services, together with profiles of our Group members can be found on our website at [www.wilkinskennedy.com](http://www.wilkinskennedy.com)

# CLIENT MONEY

The issue of client money is still a hot potato for some insurance intermediaries. Earlier this year the FSA carried out a programme of planned visits to general insurance intermediaries looking specifically at client money protection. In their comments published in April they were "surprised to find that there is still some confusion over when client money is covered by (its) rules and when it is necessary to have permission to hold client money."

Common mistakes identified by the FSA included:

- Not accounting for unearned commission
- The inability to identify individual credit balances
- The use of bank statements rather than a firm's own accounting records to calculate the client money resource
- Not accounting for money held at third parties

As an example, it was noted that some firms had adopted a policy of holding some commission in the client money bank account to act as a buffer, whilst others undertook the client money calculation and then did not withdraw commission payable until later.



Whilst management may consider these to have been prudent, keeping firm's money in a client trust account can invalidate the trust status of the account.

Firms should be aware that the FSA could visit them at any time and should therefore ensure they have appropriate systems in place to protect clients' money. The FSA has made it clear that it has sent round sufficient compliance guidelines and is now keen to take a tougher line to enforce its regulations.

If you wish to have any further information on client money requirements, please speak to any member of the WK Insurance Group.

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## BACKGROUND ON MEMBERS OF THE WK INSURANCE GROUP

**Dan Graves** heads up the Group. A partner in our London office, he has over seven years' experience in dealing with insurance intermediaries and other regulated enterprises, as well as insurance service businesses, including claims handlers. He has also assisted insurance sector clients with FSA registration and is a fluent French speaker.



**Steve Golder** is a partner in our London office, with over fifteen years' experience in advising FSA and other regulated clients. He also carries out negotiations and due diligence reporting for mergers and acquisitions.



**Paul East** is a partner in our Southend office. He has responsibility for advising FSA regulated businesses on assurance and taxation matters.



**James Selby** is WK's Director of VAT. Prior to joining the firm, he worked as a VAT consultant for Big 4 firms and has also been an accountant within the insurance sector. He advises clients on a range of issues from partial exemption, to IPT, the implications of cross border trading structures and the VAT treatment of insurance intermediary services.



**Peter Goodman** is a tax partner in our London office, working in close conjunction with other members of the Group. He has provided tax planning as well advising on share option schemes for insurance intermediaries.



**Adrian Glynn** is Managing Director of WK Business Solutions, which specialises in advising companies on human resource and business performance issues.



# TREATING CUSTOMERS FAIRLY

The FSA aims to deliver improved results for retail customers through its Treating Customers Fairly (TCF) work. It has defined six "consumer outcomes" which cover the essential levels of service by which firms will be measured. In future, where firms can demonstrate a satisfactory level of performance, they will be subject to "less scrutiny" and will therefore reap "a regulatory dividend."

The interim deadline for implementation of TCF set by the FSA was March 2007. The aim was for all firms to be rolling out TCF in a substantial part of their business. However, only 41% of smaller firms have been able to meet the requirements so far. The FSA intends to follow a targeted follow up approach, which will have "significant cost implications" for those firms which have not yet got on to the TCF train. If it detects a real failure in management behaviour it will consider taking immediate action to vary the firm's permission.

Another interim deadline has now been set for March 2008. By this date firms are expected to have appropriate management information or measures in place to test whether they are treating their customers fairly. Then by the end of December 2008 all firms will be expected to be able to demonstrate both to themselves and the FSA that they are consistently dealing with their customers according to the TCF standards.

If you require any further information about compliance with TCF implementation, please speak to your usual WK contact.



# REPORTING FINANCIAL CRIME

A new system for sharing information on financial crime was announced by the FSA in March this year. Insurance intermediaries are being called upon to inform the FSA when they suspect criminal behaviour, so that the FSA can decide whether to investigate further.

This is a voluntary initiative. The FSA is interested in both proven and suspected criminal or fraudulent actions on the part of insurance intermediaries. Examples of proven or potential fraud are as follows:

- Misappropriation of client money or money held under risk transfer agreements
- Failure to pass on premiums, refunds or claims
- Falsifying customer details to obtain insurance business that would otherwise be turned down or be more expensive
- Issuing false cover notes or false certificates of insurance

If you have any queries about this initiative, please talk to your usual WK contact.

# HR DUE DILIGENCE

When merger or acquisition decisions are being taken, the focus is usually financial, rather than on human resources issues. However, it is important to review HR related policies and commitments as well as the strengths and limitations of staff before the final papers are signed.

The cost of getting this wrong can be high: problematic staff or disciplinary processes in train can mean redundancies or industrial tribunals.

WK Business Solutions has its own HR Due Diligence checklist and an HR audit process that are, increasingly, helping clients identify risk areas before deals are finalised. In some cases the impact for the future enlarged organisation is minor. In others, however, the findings of such an investigation can be significant.

Our checklist, for example, will assist buyers in deciding:

- Should we proceed at all?
- Should the price be adjusted?
- Should the draft agreement be amended?
- Should we build conditions into the agreement?

Understanding the potential costs of any reductions in headcount and ensuring harmonisation of a re-organised business are challenging. We have considerable experience of working with clients to help them handle these issues successfully. Many M&A projects fail and the common problem is usually the human factor.

Please talk to WK Business Solutions or to any member of the Wilkins Kennedy Insurance Group if we can help.

## M&A ACTIVITY

The corporation tax rate for small companies will increase to 21% from April 2008 and to 22% from April 2009. The combination of these tax rises together with the growing burden of compliance requirements may possibly result in more small regulated brokers going down the mergers and acquisitions route. WK have considerable experience in dealing with M&A and financial due diligence work. If you need any further information, please speak to your usual WK contact.



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