

Welcome

Welcome to this edition of the **WK Insurance Services Group Newsletter**. In this issue we concentrate on some of the complex changes recently introduced which directly affect insurance brokers and intermediaries alike.

Naturally, in a publication of this size we cannot treat every subject with the depth that it perhaps deserves, but hopefully this Newsletter will give you at least an insight into the effects some of the main changes will have and indeed are already having. And of course your nearest Wilkins Kennedy office will be delighted to help you further with any questions you might have.

Treating customers fairly

Fair treatment for customers – it's not just a good idea, it's now a key FSA requirement!



For most people in the world of finance and insurance – at least those of us who want to build up long-term business relationships with our customers – the need to treat consumers and clients with respect and fairness seems blindingly obvious. Dan Graves, partner in our central office, considers some of the issues for insurance intermediaries.

For mortgage and general insurance firms, along with other a number of other regulated businesses, this has been taken a step further. Treating customers fairly (TCF) is now a key part of the regulatory system in which these businesses operate, with the FSA recently having issued the threat that: *"Where we find failings, we will continue to use our full range of regulatory powers to take tough action."*

Indeed, the newly introduced FSA guidelines lay down a series of strict "recommendations" which all finance-related businesses must follow. These TCF guidelines aim to raise the standard in the way firms operate by introducing changes that will benefit and protect consumers and increase their confidence in the financial services industry in general.

What's more, although the guidelines were due to be fully implemented by September 2009, the FSA decided to bring that date forward to January 2009 – which means they are already in place.

What does this mean for your business?

Basically, if you provide any of a number of financial services, the FSA will be performing a range of regular assessments to measure your firm's performance in an attempt to make sure that your customers are getting a fair deal.

The assessments will look at a series of core requirements to which all brokers and intermediaries should adhere and which are aimed at making sure consumers benefit in a number of ways.

How the scheme will operate

Through regular assessments, the FSA will be able to judge a number of major factors by which they will be able to make an assessment of 'Positive steps to take' for each firm.

These will include the ability to demonstrate that your senior management has developed a culture whereby they understand what the fair treatment of customers means. They will also expect evidence that the firm's staff achieve this at all times; and where a relatively small number of errors are found, that they are promptly put right and learned from.

In addition they will assess whether you are accurately measuring performance against all customer fairness issues which are materially relevant to your business as well as checking that you will act on the results and can demonstrate

that you are delivering fair outcomes for your customers.

Naturally, at Wilkins Kennedy we like to think that we have always treated our customers fairly, but if you would like any help in implementing these changes, we would be delighted to assist you in meeting the new requirements.

Positive steps to take

The overall outcome of these new rulings is that you will need to check to see if there are any gaps in your firm's TCF practice and, if so, develop procedures and checks to plug these, including the following areas:-

- > **Staff training and awareness of TCF;**
- > **Sales and marketing material;**
- > **Product understanding;**
- > **Advice and sales process;**
- > **Fact find and flow of information to the client (including after-sales) ;**
- > **Complaint handling;**
- > **Remuneration and or incentives;**
- > **Risk assessment of TCF non-compliance and**
- > **Record keeping and management information.**

To find out more about how we can help you, simply contact your nearest Wilkins Kennedy office, or call Dan Graves on 0207 403 1877.

In this issue The new **GABRIEL System**
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The new **GABRIEL System**. Is it an angel in disguise?

If your business operates in the financial markets – either as a mortgage or insurance intermediary – you will almost certainly have come across the new GABRIEL system introduced late last year.

The acronym stands for ‘**GA**thering **B**etter **R**egulatory **I**nformation **E**lectronically’ and the system has been designed and developed to be a “flexible and user friendly web-based reporting platform”.

As such, it replaces most of the FSA’s earlier reporting systems and has been designed to make life easier for you when it comes to submitting regulatory data to the FSA.

However, many people have found the recent changes somewhat confusing, depending on which part of the financial services industry they operate in.

Background

The principal strategic aim of the new reporting system is to improve the FSA’s business capability and effectiveness by:

- > **only requiring firms to provide data that it has a clear use for; and**
- > **introducing a new strategic reporting platform that will make data submission more efficient and effective for firms that have to file returns.**

Changes to reporting requirements

As you are no doubt well aware, your firm’s reporting requirements are determined by its prudential category and the regulated activities that it is permitted to undertake, with GABRIEL having replaced the Early Reporting System and the Firms Online Regulatory Reporting system in 2008.

Submission methods

GABRIEL offers 4 ways to submit your firm’s data to the FSA and of course you are permitted to choose the method that is most suitable:

- 1. Online Return** – you can enter data directly into the online system.
- 2. Offline Return** – you can download a PDF version of the online return from GABRIEL and input your data offline before uploading it for review and submission online.
- 3. Web Upload** – you will need to produce an XML file that is compliant with definitions published in the FSA’s Data Reference Guide before uploading it for review and submission online.
- 4. Direct Communication** – you can produce an XML file that is compliant with the definitions published in the Data Reference Guide. This file is then transferred to GABRIEL for automatic data processing, validation and submission.

However, many businesses have found the change over to GABRIEL somewhat frustrating or disconcerting and tricky. As such, if you would like help with any aspect of the new system, why not contact your nearest Wilkins Kennedy office who will be pleased to offer guidance and help? Alternatively, please contact Robin Haslam on 0207 403 1877.

Swine Flu Pandemic – Contingency Planning

If your business doesn’t already have a Swine Flu Pandemic contingency plan in place, now would be a good time to consider one in order to keep your business moving should the situation worsen.

So what should you consider when compiling a business contingency/continuity plan?

- > **Consider the basic requirements of the business. How would your business cope with widespread cuts in supplies, transport and other service provisions upon which your staff or your product is reliant?**
- > **Identify possibilities for, and suitability of, remote working (and the IT planning associated with this).**
- > **Contingency arrangements for the loss of ‘key players’ or tacit knowledge. Appropriate training for remaining staff on unfamiliar tasks.**
- > **Consider the option of contract staff in instances where workforces are depleted.**
- > **Identify groups of employees most at risk from school closures, travel disruptions etc and make contingency plans to cope.**
- > **Review absence policies to take into account the circumstances of the pandemic e.g.**
 - **absence due to voluntary quarantine,**
 - **notification procedure in relation to display of flu symptoms,**

- **consideration of alternative working patterns,**
- **and the implications on pay arrangements.**

- > **Improvements in cleaning procedures – concentration on hard surfaces and wet dusting.**
- > **Review office hygiene etiquette. Consideration and encouragement of basic hygiene principles – Hand washing, (alcohol hand gels where water and soap facilities are limited), use and disposal arrangements of tissues.**
- > **Consideration of policy on overseas travel, including consideration of quarantine periods for returning travellers.**
- > **Consider how communication will flow to staff, customers, clients etc. This will be vital for keeping your business operating as smoothly as possible.**

Should you wish to obtain further details about Swine Flu a useful website and helpline exists to provide information to the public (0800 1 513 513 or www.nhsdirect.nhs.uk).

If you wish to discuss the above further from a business perspective, or any other human resource issues, please contact WK Business Solutions on 0207 403 1877 or info@wkbusinesssolutions.com.

* Source - www.personneltoday.com

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Getting – and giving – a better deal on insurance

As you are probably aware, among the wide range of recent revisions to policy statements, the FSA has updated the requirements of the insurance industry with a view to clarifying the complex laws and giving your customers more protection and reassurance that he or she is being advised in accordance with best practice. Julian Golding of Wilkins Kennedy Insurance Services group explains.

The recommendations, which are detailed in the new FSA handbook called ICOBS, now follow the FSA's principles-based approach, giving your business extra flexibility over how you comply with the regulatory standards.

ICOBS also differentiates between *protection* products (including critical illness, income protection and term assurance) and other, lower risk, *general* insurance products, with fewer detailed rules for lower risk products and additional rules for protection products.

According to the FSA, the new rules have greatly simplified many areas of the general insurance market. However, in a few areas they have "responded to continuing market failures and consumer detriment by introducing carefully targeted rules to help ensure that consumers achieve a fair deal".

So what are the key changes? Status disclosure

As a broker or insurance intermediary, you must at least provide your customers with specified details about your firm and its complaints procedure (Insurance Mediation Directive information). This can be given in a printed medium or orally, and limited information can be given according to the Distance Marketing Directive telephone sale rules. Either way, written information must be provided immediately after the conclusion of the contract. An Initial Disclosure Document may be used to satisfy status disclosure if it is used in accordance with its notes and provided to the customer at the correct time.

Honesty is not just the best policy – it's the only one

It might seem obvious, but the FSA says that brokers and insurance intermediaries must take reasonable steps to ensure customers only buy policies under which they are eligible to claim benefits and that your firm should tell the

customer if it finds out at any time while arranging a policy that parts of the cover do not apply.

The new guidance also sets out the ways in which you can ensure a customer knows what they should disclose as regards material facts.

Product disclosure

Both brokers and intermediaries must always take reasonable steps to ensure customers are given appropriate information about policies in good time and in a comprehensible form so that the client can make an informed decision about the proposed arrangements.

Of course, the information required will vary and, for example, depend on:

- > **the knowledge, experience and ability of a typical customer;**
- > **the policy terms, including main benefits, exclusions and limitations, conditions and duration;**
- > **the policy's overall complexity;**
- > **whether the policy is bought in connection with other goods and services;**
- > **distance communications information requirements; and**
- > **whether the same information has been provided to the customer previously and, if so, when.**

Price disclosure

The product disclosure rules also apply to disclosing the price of the policy and a separate price disclosure of the premium and whether buying the policy is compulsory for all secondary sales.

The right of cancellation

Remember that, with very few exceptions, all consumers have a right to cancel a general insurance policy within 14 days for any reason and without penalty. For Protection policies, this time limit is increased to 30 days – again for any reason and without penalty. However, in both cases the firm can retain an amount for the service already provided as long as this is in line with their terms of business.

Claims Handling

In all cases, you must:

- > **handle claims promptly and fairly;**
- > **provide reasonable guidance to help policyholders make a claim;**
- > **not unreasonably reject a claim; and**
- > **settle claims promptly once settlement terms are agreed.**

Furthermore, it is worth noting that insurers should not reject a claim by a consumer if the claim is due to:

- > **non-disclosure of a fact material to the risk which the policyholder could not reasonably have been expected to have disclosed; and**
- > **non-negligent misrepresentation of a fact material to the risk; or a breach of a warranty or condition unrelated to the claim**

Variations for protection policies

Brokers and intermediaries must disclose at least the name of the regulator, which underwriters' policies they offer, and whether they are providing a personal recommendation or information.

In an advised sale, you should obtain relevant information to determine demands and needs and take into account existing cover, the level of cover provided by the policy, cost, relevant exclusions and conditions. Your firm should tell the customer of any demands and needs not met.

You must also take reasonable steps to ensure the information provided orally is sufficient to enable the customer to make an informed decision without overloading the customer or obscuring other parts of the information.

What to do next

As can be seen from the summary above, the new requirements are fairly complex. To discuss how these changes could impact on your business or service in more detail – or for clarification of any aspect covered above, simply contact a member of the Wilkins Kennedy Insurance Services Group office or call Julian Golding on 01702 348646.

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Conflict of interest

Make sure you're giving the best advice

In today's fiercely competitive insurance market, a few less scrupulous brokers offer their clients advice which can sometimes be biased towards the broker or intermediary – or even themselves – rather than the client. Dan Garside, partner in our Southend office, writes:

It is always imperative that you make it clear to your customers from the outset that your advice is based solely on experience, judgement, objectivity and independence.

Not only is misleading clients against FSA rules, it can damage your firm's reputation in the long run. So it's far better to build a reputation built on honesty and fair play.

How does a Conflict of Interest arise?

Professional advisers are generally employed for their expertise and judgment. However, a conflict of interest can occur when someone in a position of trust, such as a broker, has competing professional and/or personal interests, which make it difficult for them to fulfil their duties equitably.

The ideal situation is where an insurance broker acts as the agent of the customer. For example when:

- > **advising on cover required or risk management;**
- > **getting quotations for cover;**
- > **explaining cover and policy wordings;**
- > **placing business; and**
- > **helping a customer with a claim.**

However, there are also many situations where a broker is acting on behalf of the insurer and may even receive some extra financial rewards for arranging the business. For example when:

- > **issuing cover notes and certificates of insurance issuing policy documents;**
- > **collecting and accounting for premiums;**
- > **arranging property risk surveys; and**
- > **handling proposal forms.**

Brokers are usually paid by a percentage of the premium on the business they place. This is accepted practice, although paying fees for broker services instead of commission is increasingly common.

Indeed, in the past there have been cases where a very few unscrupulous brokers sought high quotations from other insurers so that when the business was ultimately placed, it looked as though a competitive market review had occurred. Insurers provided uncompetitive quotes in the expectation that at some point they would benefit from similar business placing arrangements.

So how can you be sure you're looking after your customers' best interests?

Fortunately today, most reputable insurance brokers are members of the Chartered Institute of Insurance (CII) which lays down very strict guidelines and will investigate any complaints from consumers or businesses which

think they have been unfairly treated as well as being governed by the FSA's TCF requirements.

All CII members are expected to conform their activities to the CII Code of Ethics and Conduct and they work in a variety of industry capacities. Some are senior managers and are in a position to influence the behaviour of firms. Firms should have in place a conflict management policy appropriate to their business model, including size and organisational structure, the expertise of clients, the nature of the services or products sold or administered and the type of activities engaged in.

In addition, it is part of the culture that all members are required to ask themselves some key questions whenever they act on behalf of clients, including:

- > **Am I acting fairly towards this customer (or my employer)?**
- > **Is what I am about to do or propose in the best interests of the customer?**
- > **Am I being objective in giving opinions and statements? and**
- > **Am I being honest and truthful?**

Furthermore, members should:

- > **Avoid conflict between personal interests, or the interests of any associated company, person or group of persons, and duties to customers;**
- > **Avoid conflict between any competing interests of one or more customer, stepping aside if such conflicts cannot be resolved; and**
- > **Avoid conflict between personal interests, or the interests of any associated company or person, and duties to their employer.**

Finally, CII members must ensure that any advice, solutions and recommendations are based on thorough, impartial consideration and analysis of all the available pertinent facts and their relevant experience and are realistic and clearly understood by the client.

In summary, if you want to be sure you're delivering the best, most professional and independent advice on insurance, speak to a CII member or call your nearest Wilkins Kennedy office.



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