

January Newsletter  
Issue 1/2009

Editorial

Well it's happened – the first major fine by the FSA of a London market broker. But should we be concerned or do we say it serves them right? The judgement that the FSA issued does provide some interesting reading to get some clues as to the approach it's taking. Payments to third party introducers are not illegal and it is a well established mechanism for generating business. However appropriate due diligence should be conducted on any introducers which would include assessing the risks associated with the relationship which has to include where the business comes from. The FSA also made a telling statement about arrangements where there was "no genuine commercial purpose to making the payment". Better dust off those agreements and check the wording.

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Further information on the issues in this newsletter, or any other issues which concern your business, can be obtained from  
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**FSA fines Aon Limited  
£5.25m for failings in its anti-  
bribery and corruption  
systems and controls**

The Financial Services Authority (FSA) has today fined Aon Limited (Aon Ltd) £5.25 million for failing to take reasonable care to establish and maintain effective systems and controls to counter the risks of bribery and corruption associated with making payments to overseas firms and individuals.

Aon Ltd made suspicious payments to third parties who assisted Aon in winning or retaining the business from clients in high risk jurisdictions such as Bahrain, Bangladesh, Bulgaria, Burma, Indonesia and Vietnam. The amounts totalled US\$ 2.5m and €3.4m during the period.

Aon Ltd breached the FSA's Principle 3 by failing to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

It did not take reasonable care to establish and maintain effective systems and controls for countering the risks of bribery and corruption associated with making payments to non FSA-

authorised overseas third parties.

More specifically it failed properly to assess the risks involved in its dealings with overseas third parties and failed to implement effective controls to mitigate those risks. During the relevant period:

- 1) Aon Ltd's payment procedures did not require adequate levels of due diligence to be carried out either before relationships with overseas third parties were entered into or before payments were made;
- 2) Aon Ltd failed to monitor its relationships with overseas third parties in respect of specific bribery risks in that ongoing relationships were not reviewed or monitored;
- 3) Aon Ltd did not provide its staff in business divisions which dealt with overseas third parties with sufficient guidance or training on the bribery and corruption risks involved in such dealings;
- 4) Aon Ltd failed to ensure that the committees it appointed to oversee these risks received relevant management information and/or

otherwise routinely assessed whether bribery and corruption risks were being managed effectively.

Aon Ltd failed adequately to question the purpose and nature of these suspicious payments in circumstances where it ought to have been reasonably obvious to Aon Ltd that there was a significant risk that the overseas third party might bribe the insured, the insurer or a public official and/or that there was no genuine commercial purpose to making the payment to the overseas third party.

### **Transparency, disclosure and conflicts of interest**

Following on from the short article in last month's newsletter on the FSA's feedback statement this article develops a little of what was published. The FSA has decided not to mandate commission disclosure but the trade off is that firms need to adhere to market guidance currently being developed by the trade associations. Part of this guidance is driven by the six outcomes that the FSA has developed. These are:

(a) customers should have clear and comparable information about the commissions intermediaries receive;

(b) customers should have clear and comparable information about the services intermediaries are providing;

(c) customers should have clear information about the capacity in which an intermediary is acting;

(d) customers should be alerted to their right to request commission information; and

(e) customers should be made aware where there is a chain of intermediaries.

The FSA has stated intermediaries will need to act on the guidance by providing customers with clear and comparable information. It will be monitoring progress which will involve supervisors asking firms what action they have taken in relation to the outcomes above.

The FSA still places great importance on firms having appropriate systems in place to manage conflicts of interest. However its thematic work did not identify any systemic failings and this topic is already part of its framework (Principle 8). Therefore it concluded that currently no additional measures were required.

### **Capital requirements for small firms**

The FSA has released a factsheet on financial resources requirements for mortgage and general insurance firms. This is mainly aimed at small firms and can be found at

[http://www.fsa.gov.uk/smallfirms/resources/factsheets/pdfs/fin\\_resources.pdf](http://www.fsa.gov.uk/smallfirms/resources/factsheets/pdfs/fin_resources.pdf)

### **GABRIEL and PI**

For those of you with year ends of 31 December you will be in the throws of completing your FSA return under the FSA's new GABRIEL system. If you're not then you should start soon. The system has had some teething problems so don't leave until the last minute. Some firms have been forgetting that the PI section asks you to fill certain parts out in € rather than £ which is what the FSA requires so don't get caught out. Also make sure that you have adequate cover in light of the current Euro exchange rate.