Scientia Compliance Ltd
Compliance & Risk Management Services

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Editorial

My comments on the FSA briefing were after attending the first one. As a result of feedback, the second presentation was a little more focussed on what the FSA will be looking at in the future. This is all contained in the article, but the actual presentation had been changed and in particular there was a focus additionally on TC4 and stress testing. If anyone would like a copy of the presentation please e-mail me.

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Further information on the issues in this newsletter, or any other issues which concern your business, can be obtained from Chris Keene on 020 7369 5375 / 07775 610006

FSA briefing

The FSA has recently given two briefings to members of LIIBA. The aim of each briefing (so we were told) was not necessarily to update firms on what was on the FSA's current agenda, but to present three current topics that it is working on. However, during the Q&A session the panel did comment on the work that the FSA will be doing in the future.

The presentation was in three parts:

- Significant Influence Functions;
- Transparency and commission disclosure; and
- Solvency II

1) Significant Influence Functions (SIFs)

As readers will know, SIF's were developed to reflect those responsibilities of senior management. Previously, for individuals holding significant influence controlled functions, the FSA has tended to focus on cases of dishonesty or lack of integrity, where prohibition or withdrawal of approval was the most appropriate outcome. In the future, it will also consider the competence of significant influence function holders and it will not shy away from pursuing cases against individuals who breach the FSA's Principles and the Code of Practice for Approved Persons. In such cases, fines may be more appropriate than Prohibitions.

The FSA will be interviewing more individuals mainly (but not exclusively) from 'high impact' firms that are applying to be Approved Persons (AP). This is to ensure that they know what their responsibilities are. It wants individuals to be able to show that they are competent eg have knowledge of the sector they are working in, show the appropriate behaviour (ethical market standards) and use the appropriate expertise to ensure fair outcomes for clients. This means that there is an emphasis on the sponsoring firm to ensure that they have appropriate systems in place to check the abilities of people that they hire and also ensure that they are aware of the responsibilities of being an AP. There also appears to be added emphasis on demonstrating competence.

2) Transparency and commission disclosure

Yvette Bavin noted that there will be a review to test how effective this initiative has been starting at the end of 2010/11. She did make some comments about wholesale brokers and their role in 'assisting' their retail brokers to get them to tell their clients about commission disclosure. I think that this was aimed at the UK market for obvious reasons although I think they weren't averse to the UK trying to inflict commission disclosure (or the right to ask) on other parts of the world! This did cause somewhat of a stir but they ended up by saying that the main point was that a wholesaler broker needs to understand how its retail broker carries out his business.

Firms approach to implementation of the market guidance will be assessed during Arrow visits – this will include awareness of the guidance, changes in firm's practices, whether appropriate training has been undertaken and whether there has been a change in client behaviour.

3) Solvency II

A slightly strange topic on the agenda since this applies to insurers only and given that the audience was full of brokers some of them started to glaze over at this point. This was essentially a progress report on the work being done so that firms are operational by 2012. However one interesting point that came out was the use of reinsurance as a capital tool and therefore this could be taken into account when a broker assesses an insurer as security.

Q&A session

The Q&A was a little more interesting: Tracey Tibos noted that they are "supportive" of the work currently being undertaken by the Market Reform Group. On thematic work the FSA is not doing any currently but in the future it will still be looking at contract certainty, integrity of data, ECF, Accounting and Settlement, and where firms think they are in relation to their peers in relation to these initiatives. It will also be looking at financial crime, stress testing and adequacy of resources, client money, corporate governance, controlled functions and TCF. As a general topic it will be looking at firm's general approach to Enterprise Risk Management (ie the framework for identifying and managing risk).

Appointment of new director of insurance sector at FSA

The FSA has announced that the new director of the insurance sector will be Ken Hogg, currently interim chief financial officer at MGM Assurance. He will report to Jon Pain, FSA managing director, retail markets and will begin his new role on Monday 6 July 2009. Previously he was chief operating officer at AIG Life and also spent 20 years at AEGON before joining MGM Assurance.

He succeeds Sarah Wilson, who announced at the beginning of 2009 that she wanted to seek fresh challenges outside the FSA. Ms Wilson will stay on for several more months in an advisory capacity.

FSA reduces fees for insurance intermediaries

Earlier in the month the FSA issued its final rules for fees and levies for the 2009/2010 account. The total funding requirement for insurance intermediaries which was originally consulted at £41.2m was reduced to £37.6m. This represents a 9.3% increase on last year, compared to a proposed increase of 19.7%. BIBA sees this as a great victory since it has been campaigning hard against the inequitable situation where insurance intermediaries were ultimately ending up paying for failings of other areas of the financial services industry.

Speech by Lord Turner to the ABI

This month Lord Turner, Chairman of the FSA gave his first speech to an insurance audience. Most of the speech was not relevant to the insurance intermediary market and it concentrated on life insurance based savings and Payment Protection Insurance. However he did note that in general insurance both in the commercial and household sector that this sector is the least affected by the economic climate. He noted that 22% of people have said that they have not renewed their contents insurance and 17% have not renewed their buildings cover.

He stated that as a result of a loss of confidence in the financial services industry this will result in a more intensive supervisory approach. The FSA needs to respond to people's expectations and ensure that its responses are proportionate and focussed on what matters. It will continue to look for market solutions as with contract certainty and commission disclosure. However "there can be no return to light touch regulation and supervision, to supervision on the cheap".

He noted that at a European level of regulation the FSA is arguing for a European financial services regulator, which is not involved in direct supervision. This would remain at national level but with an extensive co-ordinating role. Major change will need to occur which will have consequences for the insurance sector.