

March Newsletter
Issue 3/2009

Editorial

Whilst the FSA's approach to remuneration is a major issue for banks, insurance intermediaries cannot ignore the principles behind what the FSA is proposing. Even if the code is not applied to all authorised firms, it does provide useful information on how intermediaries should approach and manage the risks surrounding remuneration.

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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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Remuneration policies

The FSA has published a draft code of practice on remuneration policies relevant to all FSA regulated firms.

The aim of the code is to ensure that firms have remuneration policies which are consistent with sound risk management, and which do not expose them to excessive risk. It is not concerned with setting levels of remuneration, which are a matter for the boards of companies and their shareholders.

This document comes at a time when banks are perceived as rewarding failure and therefore it looks as if this doesn't apply to the insurance market. However all companies should note that any remuneration should be linked to the risks that they are being exposed to. The specific principles are as follows:

1. Boards and relevant remuneration committees should exercise independent judgment and demonstrate that their decisions are consistent with the firm's financial situation and future prospects. Their members should have the skills and experience to reach an independent judgment on the suitability of the remuneration policies, including the implications for risk and risk management.
2. The procedures for setting compensation within the firm should be clear and documented, and they should include measures to avoid conflicts of interest. Risk and compliance functions (in consultation with the firm's HR function as may be deemed appropriate) should have

significant input into setting compensation for business areas.

3. Compensation for staff in the risk and compliance functions should be determined independently of the business areas. They should have different performance metrics, with greater emphasis on the achievement of their own objectives.
4. Assessments of financial performance to calculate bonus pools should be principally based on profits. The bonus pool calculation should include an adjustment for current and future risk, and take into account the cost of capital employed and liquidity required.
5. Firms should not assess performance solely on the results of the current financial year.
6. Non-financial performance metrics, including adherence to effective risk management and compliance with regulations, should form a significant part of the performance assessment process.
7. The measurement of performance for long term incentive plans, including those based on the performance of shares, should also be risk-adjusted.
8. The fixed component of remuneration should be a sufficiently high proportion of total remuneration to allow the company to operate a fully flexible bonus policy.
9. The major part of any bonus which is a significant proportion of the fixed component should be

deferred, with a minimum vesting period.

10. It is highly desirable that the deferred element of variable compensation should be linked to the future performance of the division or business unit as a whole.

Note: The FSA has now published a consultation paper on whether this Code should be incorporated into the Handbook. It also invites discussion on whether the Code should be applied to all FSA authorised firms.

Removal of Apportionment and Oversight controlled function (CF8)

Firms should note that with effect from 1 April the FSA will disapply SYSC 2 and the apportionment and oversight controlled function (CF8) and extend SYSC 4.3 to those non-scope firms (i.e. insurance intermediaries) which have at least one governing function under the approved persons regime. Essentially the rules have been drafted on a more general basis and it means that the firm must ensure that senior personnel are responsible for complying with its obligations under the regulatory system.

This approach is the FSA being consistent with its approach to Principles Based Regulation. Firms will have more flexibility to choose the appropriate means for ensuring their senior personnel are responsible for the firm's compliance.

Practically speaking the FSA will automatically commence removal

of all relevant CF8's from the register with effect from 1 April.

FSA fines insurance claims handler

The FSA has fined Blackburn insurance broker Aspray Limited £21,000 for failings in control of its appointed representatives (ARs), and for misleading its clients and the FSA. (Aspray specialises in managing insurance claims for property repairs.) It did not maintain appropriate systems and controls for the recruitment, training and monitoring of its ARs.

It also misled clients by telling them:

- that its services were free of charge when in fact cancellation charges could be incurred and ARs had discretion to charge an insurance excess; and
- that all its contractors were screened and only quality local tradesman were used, when in fact most contractors were found using sources such as 'Yell.com' and were not properly vetted.

The firm also failed to inform customers about the Financial Ombudsman Service (FOS) and their right to refer complaints to FOS. It misled the FSA by claiming that it had made compliance visits to all its ARs, had made financial checks on them and reviewed their files when it had in fact performed none of these procedures.

Deregulation of freight forwarding, removal and self-storage insurance

The Treasury has now issued the amendment order confirming that deregulation comes into force on 6 April 2009. If a firm is authorised to transact open cover freight forwarding and storage business and does not transact any other regulated activities, it can now apply to the FSA to cancel its permission before 31 March 2009. This will avoid paying fees for the next financial year.

FSA fee proposals

The FSA recently issued a consultation paper (CP09/7) setting out its proposals for its regulatory fees and levies for 2009/10.

The FSA's business plan stated that it needs £117m in regulatory fees, which BIBA states represents an increase of 36.5%. This will mean an increase in fees for the majority of authorised firms.

BIBA is asking firms to join its fees campaign, since it is concerned at the potential impact the increases will have on medium sized and larger firms. It wants firms to take part and respond to the FSA's consultation paper. If firms wish to find out more information they should go to www.biba.org.uk.