

COMPLIANCE NEWS – FOR IFAs

OCTOBER 2017 edition

Regular newsletters since 2004 – see our website www.compliancencenews.org

Welcome to Compliance News: This free bulletin is issued by Compliance News Limited to over 21,000 IFAs (& restricted advisers) and compliance staff in the UK. Please feel free to encourage any other IFAs you know to register for the bulletin by emailing Compliance News via compliance@ifahelpline.co.uk

Introducing the Editor: Phil Dibb has over 25 years experience in financial services and holds Chartered status. He worked at PIA / FSA from 1997 to 2002 and now runs his own Compliance Consultancy firm. A Chartered status. In addition he is also a member of the steering group of the Association of Professional Compliance Consultants (APCC).
<https://www.apcc.org.uk/>

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Recently issued updates / documents include:

- MiFID II for IFAs (subscribers will receive more very soon)
- GDPR documents / LEI update
- DB transfer file-checking sheet
- DB transfer ‘sanity checklist’ does the case have legs to take forward?
- MiFID / Structured deposits example application form for permission to be added.

The Premier Service is available from only £330 per firm for the year. We believe that the Premier Service will save a typical firm at least 50 hours each year. See page 8 for full details of how to subscribe or e-mail compliance@ifahelpline.co.uk

<u>MiFID Training Courses for IFA firms</u>	<u>MLRO / Anti-ML Update training for IFAs</u>
Leeds – 17th November 2017	Leeds – Thursday 12th October 2017
Central London – 27th November 2017	London – Thursday 19th October 2017

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1. General update – Compliance planning for IFA firms

As we get into October 2017 it will be no surprise to our readers that the world of IFA Compliance is extremely busy. As a reminder to directly-authorized firms, you should (if applicable) have plans for the following areas:-

- i) MiFID II and how your firm will disclose the 'ongoing' adviser charges / total costs to clients. Your plan might include talking to your main product providers and back-office systems like Intelliflo / Iress / X-plan. You may also be planning to attend a training session on MiFID for directly-authorized IFAs.
- ii) LEI- Legal Entity Identifiers: Many of your non-retail clients may require one. Your own IFA firm may require one and you will probably be contacted by any DFM's you have a close link with. A deadline approaches.
- iii) Senior Management Regime – Another significant change which WILL affect directly-authorized IFAs. Who is responsible for the key areas at your firm? You should have an allocated 'champion' and be monitoring the situation. Please don't think it might not happen it will and your firm are included.
- iv) DB Transfers: Whilst the FCA's Consultation Paper (16/17) deadline was 23/9/17, if you are involved in DB transfers you should be looking at this area. File-standards should be very high and record-keeping on 'advise to' or 'advise not to' should also be in place. Please also keep in contact with your PII brokers / insurer.
- v) DB Transfers – FCA alert on 3rd October 2017: A further update on suitability issues.
- vi) GDPR – It all comes into force on the 25th May 2018 . But your own planning needs to begin well before this date. What Data do you hold? Have you the full consent from clients? You probably need a plan and a 'champion' within the office to take charge.
- vii) Disclosure documents, describing the ongoing services you provide and how these are charged? In the FCA's suitability assessment document it was very clear that approximately 40% of firms were not making the required standard.
- viii) Structured Deposit – Variation of permission: Should your firm consider this? The majority of the IFA firms we assist have. Please note that after the initial deadline, a fee will be payable to the FCA.

2. 'Advising on Pension Transfers' & Consultation - CP17/16.

The FCA published a Consultation Paper on 'Advising on Pension Transfers'. For firms involved in this very topical area, the whole subject of TVAS and comparisons to purchasing an annuity has frustrated many people for some time. The abbreviations **TVC** – Transfer Value Comparator and **APTA** – Appropriate Pension Transfer Analysis will soon be added to our daily life. A brief summary can be found at:-

<https://www.fca.org.uk/news/press-releases/fca-proposes-changes-advice-pension-transfers>

The Consultation paper link - <https://www.fca.org.uk/publication/consultation/cp17-16.pdf>

It is 65 pages long, it would appear that pages 9 to 25 are a must read if you are involved in this area. Responses were required by 21st September 2017.

The proposals include:

- *replacing the current transfer value analysis requirement (TVA) with a comparison showing the value of the benefits being given up*
- *introducing a rule to require all advice in this area to be provided as a personal recommendation, which fully reflects the client's circumstances and provides a recommended course of action*
- *updating our guidance on assessing suitability when giving a personal recommendation to convert or transfer safeguarded benefits, so that advisers focus on whether a transaction is right for a particular individual*
- *introducing guidance on the role of a pension transfer specialist.*

(Source – FCA – 21/6/17)

3. MiFID II Related Issues

The 'noise' in the market relating to MiFID II is now becoming much louder.

Points to consider:

- Please make sure you have properly considered the email below and if required are planning to contact the FCA to request to have 'Structured Deposits' added to your permissions.
- Our updates throughout the MiFID process / Policy statements and so on will be mainly focused to '**Article 3 MiFID exempt firms**'. Approximately 90% of our subscribers fall into this category (they are UK based IFAs, who do not provide investment advice outside the UK / do not act with 'discretion' / do not hold client money). Please check your own firm on the FCA Register <https://register.fca.org.uk/> you will see the information you need under the 'permissions' tab. If you attend any events on this topic, it is important that you seek confirmation whether they are referring to 'Article 3 MiFID exempt firms'. Some 'Article 3' firms will hold an Insurance Mediation passport or two within Europe – this is quite normal ('MiFID II' and 'Insurance Mediation' are two completely different areas).
- We are awaiting further feedback from the FCA on a recent 'Consultation' and are in contact with them on this very point. One of the most important parts relates to the area of the disclosure of the '**aggregated**' ongoing costs. This could mean an annual letter to your clients, to include how much you have earned from all the policies / investments. Below is the link. Section 5.41 to 5.50 are worth a read (pages 50 & 51 of a total of 568 pages).

<https://www.fca.org.uk/publication/consultation/cp16-29.pdf>

5.41 These new provisions introduce new requirements for firms to provide aggregated and on-going information on all costs and associated charges which go beyond what is currently required. MiFID investment firms and Article 3 firms (carrying on MiFID-scope business) will be required to include certain information about the costs and charges, including the cost of advice, where relevant, the cost of the instrument recommended or marketed, how the client may pay for it, and the cost of third-party payments.

5.42 The new provisions require that all costs and charges, including those in connection with the investment service and the financial instrument, which are not caused by the occurrence of underlying market risk, are aggregated. This allows the client to understand the overall cost as well as the cumulative effect on the return of the investment. Where the client requests it, firms must also provide an itemised breakdown of costs.

5.43 Further, where applicable, firms will need to provide the aggregated information (and itemised information, if requested) to the client on a regular basis, at least annually, during the lifetime of the investment.

Source – FCA Consultation paper

4. MiFID training courses / Anti-Money Laundering update and focus on electronic checks

MiFID Course: Do you want to know how MiFID II will affect your firm? Come along to one of our training courses – specifically designed for small / medium sized IFA firms who are directly-authorised.

Leeds – 17th November 2017 and Central London 27th November 2017

MLRO / CF11 Course – Want to have an update on the recent Money-Laundering Directive – For IFA firms!

Leeds – 12th October 2017 and London 19th November 2017

Please send an email to compliance@ifahelpline.co.uk for more details.

5. Senior Managers Regime

We have spoken to the FCA about this area, this will be rolled out to 40,000+ 'small' firms at some point in the near future. The FCA has informed us that the requirements will be 'proportionate' to these firms.

We hope and expect such a 'proportionate' approach will include the vast majority of our subscribers, who are 'small' directly-authorized IFAs (typically with a turnover of less than £5m), identified as a Personal Investment Firms and who do not hold client money and the FCA consider to be 'small' firms.

The two links below provide further information for anyone wanting to know more about the topic generically.

<https://www.fca.org.uk/firms/senior-managers-certification-regime>

<https://www.fca.org.uk/publication/documents/strengthening-accountability-in-banking-slides.pdf>

In preparation of this area, we believe that our subscribing firms should consider and be aware of the following areas:-

1. Allocating Responsibility within your own firm.
2. Discussing the area of 'Whistleblowing' with all staff at your firm. Some staff within the industry are now referring to this area as '**Speaking Out**' – this is an attempt to raise the awareness. The attached four Whistleblowing documents will assist. You should display the FCA poster in an area which is readily accessible to all staff.
3. Fit & proper declarations. We would strongly recommend that these are used annually at firms as good practice.

6. Occupational Transfers – Checking Service

Pension Transfer Checking Limited are able to arrange to check "Occupational transfers" on a "pay as you go" basis. A number of firms just send in one file each quarter - there is no minimum you need to agree to.

Costs: £480 for a DB / final-salary scheme transfer to be checked.

The main element to this service is to clearly highlight that we are not able to take-on the advice liability from completing such a check. Pension Transfer Checking Limited is NOT authorised by the FCA and has no plans to change this. The majority of cases we are involved in are linked to authorised IFA firms looking to undertake third-party checking / Compliance control of such higher-risk cases.

Turnaround times: Our expected time to complete such a check is 7 to 10 days from when we receive the complete file. However, we hope to be able to reduce this in many situations. To arrange for a check to be done, please contact us and we forward our "file review service request" form and Terms & conditions. Please email office@filecheck.co.uk

7. Remote File Checking – Another very important area !

How does your firm document & monitor advice standards?

Below are five key areas which are regularly focused on when client files are reviewed. In our opinion, it is very important that your own files can clearly demonstrate the following:

See below .

- Issue of Regulatory documents / client agreements / agreement of payment method & services to be provided.
- File to show full 'know your client records', linking in needs, priorities, objectives, liquid cash funds and affordability with the client's attitude to risk.
- Research: To demonstrate that non-provider led research has taken place.
- Suitability report / letter: To link the client's circumstances / ATR / objectives with the advice.
- Follow-up documentation and a clear record of 'what happens next'; including any review dates (in particular drawdown cases).

Through our sister company Just CRS Limited, we are able to provide a remote file checking service to IFA firms on a '**pay as you go**' basis. The costs are: £75 + VAT per remote client file review with summary sheet (excluding multiple transaction files or higher risk cases such as drawdown or PPP switching) or £105 + VAT per drawdown / PP switching (up to 3 into 1) / replacement business / structured products remote file check. Please contact Katherine Horgan at katherine@justcrs.co.uk or 07815 767204.

Just CRS Limited is an active member of the APCC.
http://apccorqu.nextmp.net/?post_type=directory&p=2830

8. Supervisor Refresher Course – Very worthwhile AND 6 hours of Structured CPD

We are pleased to announce the following five course dates (costs include VAT):-

- RAWDON, LEEDS** – Friday 24th November 2017 - Cost £174 per delegate.
- CENTRAL LONDON** – Tuesday 28th November 2017 – Cost £228 per delegate.
- CENTRAL LONDON** – Wednesday 29th November 2017 – Cost £228 per delegate.
- COVENTRY** – Monday 11th December 2017 – Cost £192 per delegate.
- BRISTOL** (near the Motorway) – Tuesday 12th December 2017 – Cost £192 per delegate.

The course is a 9-30am to 4-40pm day with two 15 min breaks plus 45mins for lunch. A typical delegate would be someone who has IFA / FS Industry experience and is fully aware of the advice process. Most attendees are those with some responsibility at an IFA firm – many are advisers themselves who 'supervise'. We will provide full documentation for 6 hours Structured CPD.

Main aims and objectives:-

- Understand the value and responsibilities of T & C and Supervisors
- Develop and enhance existing Supervisory skills
- Discuss the core competencies of a Supervisor and their main roles
- Debate 'Recruitment Standards' and the checking process/references
- Understand and discuss the differences between Supervision, Monitoring and Assessment and the other Supervisory tools available
- Understand the requirements of 'signing-off' a trainee to competent status
- Know how to record how an adviser is 'Maintaining Competence' - Consider the specific FCA T & C rules / guidance
- Discuss 'Risk Based' Supervision and use suggested documents
- Know how to coach and develop advisers and document such action
- General discussion on T & C requirements and post RDR new KPIs
- Identify key areas of your own T&C scheme which could be improved
- Learn about similar challenges held by other IFA firms and discuss the various solutions available
- Understand the main FCA Controlled Functions which relate to IFA firms.

Please email compliance@ifahelpline.co.uk to book a place on these courses.

9. Regulation Round-up (issued by the FCA)

The FCA continue to publish this monthly newsletter, which features 'hot topics' and other news about their activities. It is an 'easy read' document – typically 6 or 7 pages – and we recommend it is read by all approved persons within your firm.

The following link can be used to subscribe for future issues of Regulation round-up:

<https://www.fca.org.uk/firms/sign-up-regulation-round-up>

10. Premier Service recently issued update emails since June 2017

All subscribers are able to use the extensive range of forms we maintain. In addition, we issue regular email updates.

- Update 158 – LEIs and general update
- Update 157 – Snr Mgt regime & Data protection test paper
- Update 156 – MiFID & GDPR focused plus general update
- Update 155 – Drawdown test paper and general IFA new update
- Update 154 – GP adviser test and general update.

Any questions? Please call us on 0113-2583111 OR 07973-363277

11. GABRIEL & other Regulatory submissions

Regulatory Returns Limited is able to provide a dedicated full time service. For further assistance please contact Lisa at lisa@regulatoryreturns.co.uk or 07859 194096.

EXAMPLE SERVICES (for all Regulatory Returns for directly authorised IFAs - Non MiFid)	COST
GABRIEL/RMAR Query	£65.00
GABRIEL validation – checking service to offer piece of mind that your return is correct prior to submission	£200 per return
GABRIEL completion – Return fully completed and validated on your behalf. Feedback on any areas where your data appears incorrect or areas that we feel the FCA may question.	£300 per return
Application to become directly authorised – Initial meeting to discuss requirements, completion of application form and all supporting documents required, assistance throughout the whole process.	From £1750

If your firm has Subordinated Directors Loans then you should be aware of the changes that took place in June 2017. From this date you are no longer able to rely on your subordinated loan to meet 100% of your financial resources requirement. The maximum you can utilise is 4 times your other capital (i.e. Share Capital, Retained Profit). Please ensure that you are calculating your financial resource requirement correctly as we feel that the FCA may undertake some additional checks in the coming months in order to ensure Firms are complying with the new regulation.

<http://www.fca.org.uk/static/fca/documents/policy-statements/ps15-28.pdf>

For further assistance in this area please contact Lisa Simpson.

12. Retail Investment Events – FCA LIVE & LOCAL

The FCA have announced a number of new events for Retail Investment Firms; these include Interactive Workshops on assessing suitability, Q&A Roundtable with the FCA & Industry Panel and 1 to 1 surgeries with a supervisor from the FCA.

For the full list of events and locations, please visit the link below

<https://www.fca.org.uk/live-local-events/retail-investment>

13. Premier Service documents

We believe this service will save a typical IFA firm at least 50 to 80 hours per year.

MOST DOCUMENTS ARE SENT ELECTRONICALLY ON 'WORD'

Benefit: You have access to **all the forms** we have, at no extra charge. We will send a wide range of IFA forms / guidance on a regular basis to you in 'word' document format. In addition, wherever possible we will try and assist with individual requests.

Firms with 1 to 2 advisers - £330 p.a. PER FIRM

Firms with 3 to 6 advisers - £480 p.a. PER FIRM

Firms with 7 to 12 advisers - £780 p.a. PER FIRM

13 advisers or more – please contact us

The following is a list of just some of the documents issued.

Generic Knowledge test for advisers
Pension Transfer knowledge test
Income Drawdown review form
Reference Request forms
Conflicts of Interest Policy
Data Security documents
Anti-Money Laundering Annual test
Updated Terms of Business letters (RCA)
Compliance / Risk Mitigation plan
Compliance Audit forms,
Updated Observation forms
DB transfer 'sanity checklist'

Fit & Proper declarations
Client agreements
Fee agreements,
IFA Research / Committee minutes
Maintaining Competence (T & C) form, Suitability
Letter templates,
File completeness checking forms,
Blank reference request forms, diary template,
Disaster Recovery / Continuity plan,
Provider Research summary forms, Recruitment
checklists
DB transfer checking form

14. COMPLIANCE NEWS PREMIER SERVICE – HOW TO SUBSCRIBE

PLEASE COMPLETE THE FOLLOWING SUBSCRIPTION FORM AND POST / SCAN TO:

Compliance News Limited, Egerton House, 14 Egerton Terrace, Rawdon, Leeds, LS19 6QA
compliance@ifahelpline.co.uk

Firm Name:	
Contact Point:	
Address:	
Telephone No:	FCA Number:
E-mail:	
Current number of advisers (CF30's & any mortgage advisers):	
Current number of Appointed Representatives:	
Costs for Small to medium sized IFA firms who do not provide Compliance / Commercial services to other firms and agree <u>not</u> to pass on the material to external firms.	
	Please tick (✓)
Firms with 1 to 2 advisers - £330 p.a. (£275+VAT)	
Firms with 3 to 6 advisers - £480 p.a. (£400+VAT)	
Firms with 7 to 12 advisers - £780 p.a. (£650+VAT)	
Firms with 13 of more advisers – To be agreed individually due to their size. Please contact us for costs.	
How can Compliance News Help You Further – Chargeable Additional Services	
	Tick for more info (✓)
Remote file-checking service	
Variation of Permission / FCA New Authorisation assistance	
DB Transfer file-checking	
GABRIEL assistance, ad-hoc queries or completion of your returns	
T & C Supervisor / Refresher Course	
MiFID II and / or Anti-ML training courses for IFA staff	
Please make cheques payable to <u>Compliance News Limited</u> and post to Compliance News Ltd, Egerton House, 14 Egerton Terrace, Rawdon, Leeds, LS19 6QA	
Or, to pay by BACS, please email us for bank details.	
An invoice marked as 'paid' will be issued with all orders.	