

# COMPLIANCE NEWS – FOR IFAs

## May 2019 edition

Regular newsletters since 2004 – see our website [www.compliancenes.org](http://www.compliancenes.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](mailto: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). [www.apcc.org.uk/steering-council](http://www.apcc.org.uk/steering-council)

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Recently designed documents / assistance issued on include:

- **SM & CR**
- **Updated fit & proper declarations**
- **DB transfer – Knowledge assessment papers (and answer sheet)**
- **Equity Release - Knowledge assessment papers (and answer sheet)**
- **New FSCS limits**
- **Annual Compliance planner**
- **PROD help**

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 10 for full details of how to subscribe or e-mail [compliance@ifahelpline.co.uk](mailto:compliance@ifahelpline.co.uk)

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## 1. Updated FOS limits

During November 2018 we really did promote the need for firms to reply to the FCA's Consultation Paper (CP) – but sadly, the responses fell on deaf ears and the FOS limits have now increased.

<https://www.fca.org.uk/publication/policy/ps19-08.pdf>

From the 1<sup>st</sup> April 2019, the binding award limit for the Financial Ombudsman Service (FOS) has changed to:

- £350,000 for complaints about acts or omissions on or after 1 April 2019
- £160,000 for complaints about acts or omissions before 1 April 2019.

As you may expect, the PII market has reacted to this change.

On Friday 29<sup>th</sup> March 2019 the FCA contacted a number of firms regarding PII and the new FOS limits. Requesting firms to check their PII policy and consider 4 steps:-

- Check your PII policy and ensure that it provides cover for the new FOS award limits. If it does, there are no further steps you need to take.*
- If you are not sure, speak to your insurer or broker (as appropriate) in the first instance.*
- If your PII policy does not provide compliant cover, please complete this online survey within 5 working days to notify us and let us know how you intend to obtain this cover. Alternatively, you can tell us via the FCA firm contact centre.*
- If you have further questions about changes to the FOS award limit or PII policies, please email [cp18-31@fca.org.uk](mailto:cp18-31@fca.org.uk).*

Source – FCA – Friday 29/3/19

On the FOS limits Policy Statement – there were just over 100 responses sent to the FCA ... **Compliance News believes that 34 were from our own subscribing firms using our template letter** – does this mean that other firms did not want to comment or the voice in the IFA industry is too weak? Personally (whilst we've got your ear) ... we think the IFA industry needs to pull-together. Any views are most welcome.

## 2. DB Transfers (and what will the FCA do next?)

We expect that the FCA may soon start to contact additional firms in relation to DB transfer advice standards. The FCA request for additional details might include (for the period 1 April 2015 to 30 September 2018):-

Client name / DOB / TV – ceding & receiving scheme / any incentives / date of recommendation / the date the Suitability Report was issued / insistent client? / adviser / PTS.

## 3. PII MARKET (lack of cover / also linked with DB transfers / FOS limits)

The PII market is “hard”. Firms need to give themselves plenty of time when planning their renewal. If you have exposure to DB transfer advice, it is very possible that terms will be either subject to strict limitations or not available at all. We have a copy of the Liberty PII DB questionnaire available upon request. The FCA Financial Resources Rules (link below) - sections 13.1.23 & 27 are probably of interest.

<https://www.handbook.fca.org.uk/handbook/IPRU-INV/13.pdf>

Peter Monks from Griffiths & Armour [pmonks@griffithsandarmour.com](mailto:pmonks@griffithsandarmour.com) is our main contact for PII.

## 4. MiFID II – Disclosure of charging & ongoing “periodic” suitability checks for investments

### **THIS IS A VERY IMPORTANT AREA**

This area continues to be very difficult to interpret with the FCA offering very little assistance to IFAs (another need for a stronger industry voice?). In addition, with at least two mainstream wraps / platforms causing big issues for IFAs, obtaining accurate information in a timely fashion is proving difficult for some firms.

As at April 2019, it is our general view that directly authorised IFA firms should be aiming to:-

- Disclose the ongoing adviser-charging fees deducted at least annually (typically where an adviser charge has been agreed in return for an ongoing service)
- Disclose the ongoing costs of the investment (to include costs of the investments & wrap / platform) at least annually.
- When an ongoing advice service has been agreed, the suitability of the investment is reviewed annually.

Please note, we are hoping to get some clarity from the FCA over the coming months. In addition, with TCF and the FOS in mind, it is possible that such interpretations will change over time.

### **MiFID training courses (4 sessions) Phil Dibb presenting with an external speaker – we will look at the FCA Rules specific to IFA disclosure and ongoing suitability**

These are purely focused on the NEEDS of directly-authorized IFA firms who are ‘Article 3 exempt’. We will also be requesting questions be submitted prior to the event.

Session M1: Central Leeds – Thursday 9<sup>th</sup> May 2019 - AM slot – 9:30am to 12:30pm (cost £180 per delegate)

Session M2: Central Leeds – Thursday 9<sup>th</sup> May 2019 – PM slot – 1:30pm to 4:30pm (cost £180 per delegate)

Session M3: Central London (near Barbican) – Wednesday 15<sup>th</sup> May 2019 – AM slot - 9:30am to 12:30pm (cost £198 per delegate)

Session M4: Central London (near Barbican) – Wednesday 15<sup>th</sup> May 2019 – PM slot – 1:30pm to 4:30pm (cost £198 per delegate)

To book a place, please reply by email and state which session you wish to book on.

## 5. Overseas clients – Thinking ahead?

With ‘Brexit’ changes looming, many of our subscribing firms have clients abroad and also hold ‘Insurance Mediation’ passports with various EEA states. Subject to ‘Brexit’, it is likely that affected firms will need to take some action. Our initial advice would be to make sure that you have an accurate list of any non-UK clients. Whilst the whole area of overseas clients is open to debate, at the end of this email we have listed a few general areas which firms should consider. It is fair to say, that many IFAs have now walked away from such client situations, due to the complexity of Regulations. For the avoidance of doubt, as at 1/5/2019, we are unaware of how ‘Brexit’ will affect existing IFA passports.

## 6. New FSCS limits

For Regulated firms that ‘fail’ after the 1st April 2019 the FSCS limits for investments & pensions have increased from £50,000 to £85,000. Did your Compliance provider inform you?

<https://www.fscs.org.uk/what-we-cover/investments/>

<https://www.fscs.org.uk/what-we-cover/pensions/>

## 7. SM & CR (Senior Managers & Certification Regime)

- We have covered this topic in detail before, but as a summary:-
- From 9/12/19 changes at IFA firms – We expect that 98% of our subscribing IFA firms will likely be ‘Core’ firms.
- Most Directors / Partners / Compliance Oversight / MLRO positions will be ‘mapped’ across (are the right people in the correct roles today?)
- The ‘Senior Management’ require ‘Statements of Responsibilities’ (SoRs).
- The FCA register moves to the ‘Directory’ – the CF30 function will cease and such advisers & mortgage advisers will be ‘Certified’ by the firm’s Senior Management. Other Supervisors / Senior staff would also probably be ‘Certified’.
- After 9/12/19 – CF30’s will no longer be ‘approved’ by the FCA.
- We expect many firms will insist on stricter recruitment minimum standards.
- Staff will require to be trained on ‘Conduct Rules’.
- Ongoing ‘Fit & proper’ checks (see our update 178).

To assist firms .....

- i) YouTube – We have recorded a very short video summary  
<https://www.youtube.com/watch?v=hEoNw7DPnAU>
- ii) SM & CR training courses – we ran 5 sessions in April 2019 and plan more later in the year (please register your interest).
- iii) We are putting a ‘SM&CR’ pack together – to include Statements of Responsibilities and Certificates – aimed at small / medium sized IFA firms.

## 8. Introduction of “PROD”

For most firms ... IFAs will be regarded as ‘Distributors’ and providers / investment funds as ‘Manufacturers’. IFAs should also focus on the phrase ‘Target Market’ and read 3.3 & 4.3 (Distribution) of the handbook (link below).

<https://www.handbook.fca.org.uk/handbook/PROD.pdf>

- *Identifying the target market and creating a distribution strategy,*
- *the nature of the financial instruments to be offered or recommended and how they fit with end clients’ needs and risk appetite.*
- *the impact of charges on clients.*
- *the financial strength of the manufacturer (provider)*
- *where information is available on the manufacturer’s processes, how efficiently and reliably the manufacturer will deal with the end client at the point of sale or subsequently, such as when complaints arise, claims are made or the financial instrument reaches maturity.*

Source – FCA

Example ‘Target market’ statements (already used by manufacturers):

A – From a well-known investment trust: ‘Target market.... *‘This Trust is suitable for all investors seeking a fund that aims to deliver growth with a long investment time horizon as the core or a component of a portfolio of investments. The stockmarket provides ready access to the investment. The investor should be prepared to bear losses. This Trust is compatible for mass market distribution’.*

B – From a reasonably well-known defensive Structured Investment product: ‘Target Market ....’ *This Plan could be appropriate as part of an investment portfolio for investors who are Advanced Investors, with appropriate knowledge and experience of equity-based investments’.*

## 9. FOS eligibility

FOS changes: Following our subscriber update 179 ... the FOS rules on which small businesses can access the FOS (your commercial clients) has changed.

<https://sme.financial-ombudsman.org.uk/complain/can-help>

From the FOS ... *'We can help micro-enterprises and small businesses (including self-employed people, partnerships and limited companies).*

*According to our rules:*

- *a micro-enterprise is a business which has a turnover or annual balance sheet that does not exceed €2 million*
- *employs fewer than 10 employees*
- *a small business is an enterprise which is not a micro-enterprise*
- *has an annual turnover of less than £6.5 million*
- *has a balance sheet total of less than £5 million, or employs fewer than 50 employees.*

*We can also help charities with an annual income of less than £6.5m and trusts with a net asset value of less than £5m; and individuals who act as personal guarantors for loans to businesses they're involved in.*

Source – FOS – 4/4/19

## 10. 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:

- 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 £120 + 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](mailto:katherine@justcrs.co.uk) or 07815 767204.

Just CRS Limited is an active member of the APCC.

<http://www.apcc.org.uk/the-directory/members/justcrs-ltd>

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

The latest round of courses in June 2019 are now fully subscribed, so we are planning further sessions around the UK over the coming months.

A typical delegate would be someone who has IFA / FS Industry experience and is fully aware of the advice process. The most common people to attend are those with responsibility at an IFA firm – many are advisers themselves who ‘supervise’.

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
- 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 how the SM & CR will change things at IFA firms.

Costs: Typically £190 per person and £205 per person in the London area.

Further courses are in the planning stage, please email [compliance@ifahelpline.co.uk](mailto:compliance@ifahelpline.co.uk) to register your interest for these courses.

## 12. 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>

## 13. Premier Service recently issued update emails

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

- Update 181 (April 2019) FSCS limits
- Update 180 (March 2019) FOS changes / SM&CR / PROD
- Update 179 (March 2019) PII Market / Annual Planner
- Update 178 (Jan 2019) Fit & proper declarations / Financial Resources / Forums
- Update 177 (Jan 2019) DB Transfer AND Equity Release knowledge test papers

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

Every six months, we also carry out telephone based training for our subscribers (**included in the price**) – in February 2019 we ran individual sessions on Complaints Handling / Data Protection / Anti-Bribery / Whistleblowing / Anti-Money Laundering.

### 14. 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](mailto: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

Sole-trader or basic partnership? Have you considered a 'Change of Legal Entity' (COLE)? We can assist, please make contact.

### 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.

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

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  
Personal account dealing declaration

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IF PAYING BY BACS PLEASE QUOTE YOUR FCA NUMBER AS THE REFERENCE

<b>Firm Name:</b>	
<b>Contact Point:</b>	
<b>Address:</b>	
<b>Telephone No:</b>	<b>FCA Number:</b>
<b>E-mail:</b>	
<b>Current number of advisers (CF30's &amp; any mortgage advisers):</b>	
<b>Current number of Appointed Representatives:</b>	
<b>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.</b>	
	<b>Please tick (✓)</b>
<b>Firms with 1 to 2 advisers - £330 p.a. (£275+VAT)</b>	
<b>Firms with 3 to 6 advisers - £480 p.a. (£400+VAT)</b>	
<b>Firms with 7 to 12 advisers - £780 p.a. (£650+VAT)</b>	
<b>Firms with 13 of more advisers – To be agreed individually due to their size. Please contact us for costs.</b>	
<b>How can Compliance News Help You Further – Chargeable Additional Services</b>	
	<b>Tick for more info (✓)</b>
Remote file-checking service	
Variation of Permission / FCA New Authorisation assistance	
Compliance & regulatory forums	
DB Transfer file-checking	
GABRIEL assistance, ad-hoc queries or completion of your returns	
T & C Supervisor / Refresher Course	
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