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**Newsletter**

**December 2005**



## We've moved!

Our new address is:

26 Newmarket Street  
Skipton  
North Yorkshire  
BD23 2JB

Tel: 01756 796068

Fax: 01756 797860

Email: [info@practicalcompliance.co.uk](mailto:info@practicalcompliance.co.uk)

## Visit our new Website!

For all the latest FSA information, free template documents for your use, articles etc visit:

[www.practicalcompliance.co.uk](http://www.practicalcompliance.co.uk)



## Staff Announcements!

### Su Cartwright

Compliance Consultant

We're delighted to introduce our newest member of the team...Su.

Su comes with a wealth of experience in back office systems, 1<sup>st</sup> Software & IFA practices. We are very pleased she has decided to join us & we're sure you will meet her over the coming weeks.

Vic Stockdale continues to co-ordinate our busy office and should be used as a contact point for any of our team.

Email: [victoria@practicalcompliance.co.uk](mailto:victoria@practicalcompliance.co.uk)

## The meaning of the FSA rules regarding introducers

This is an area which we feel requires some clarity and action!

The activity of “introducing” is now a regulated activity in its own right.

For many firms these rules will mean choosing between two courses of action;

1. Ending the business relationship with any current introducers.
2. Registering these introducers with the FSA as an “Introducer appointed representative.



First let's examine what classes as a regulated introduction.

**If a firm or individual actively promotes your services to their client and facilitates an “introduction” for some form of gain either financial or otherwise this will classify as the regulated activity of introducing.**

There is however an exclusion which some firms may benefit from. If the introduction is “passive”, it is not classed as a regulated activity. The best way to describe a passive introduction (or referral) is one where the introducer recommends your services to his client but leaves it to the client to make contact with you. If however the introducer passes on the clients details to you or actively brings you and the client together it will not class as “passive” and will become a regulated activity.

The FSA has an example of a passive introduction detailed below;

*Example of a passive introduction.(referral)* The introducer is a vet. The vet displays a leaflet promoting “pet insurance via an insurance intermediary” in his waiting room. Clients who express an interest in pet insurance are encouraged to take a leaflet and contact the intermediary themselves if interested.

### *Example of a regulated introduction*

The introducer is a vet. The vet actively introduces clients to the intermediary by either;

- Calling the intermediary whilst the client is there and introducing them on the phone.
- Taking the clients details and passing them on to the intermediary.
- Any other activity where the vet actively introduces the client and the intermediary.

These rules are in force now and any firm which has regulated introducers as described above should take action now.

Additionally, before applying to the FSA to register your introducer appointed representative, some form of vetting / due diligence should be carried out of the introducer in the same way you would vet an approved person before application to the FSA.

The required form can be downloaded from the FSA website with the following link.

[http://www.fsa.gov.uk/pubs/other/add\\_app\\_rep.pdf](http://www.fsa.gov.uk/pubs/other/add_app_rep.pdf)

**W**e would therefore recommend that you review your current list of introducers and decide whether or not they should be regulated. For the ones which require regulation you need to download the form above and begin the regulatory process

## IFA news.

### Standard life.

From evidence we have seen so far most of you are already taking a cautious attitude to your suitability letter wording regarding the possible demutualisation of Standard Life and the "possible benefits" which may be lost or gained.

Whilst Standard Life are fully expected to vote in favour of demutualisation it is not guaranteed.

Whether recommending transferring funds away from Standard Life or recommending they remain invested with Standard Life we are suggesting you include the following wording after your recommendation.

*Standard Life have indicated that they are looking to demutualise and become a Public Limited Company (PLC). Demutualisation is to be voted on at a Special General Meeting due to be held in 2006. If agreement goes ahead then all eligible members will receive shares in the new PLC although the exact amount is unknown.*

*You should remember that there is no guarantee that Standard Life will demutualise and you should NOT base your financial decisions on the demutualisation plans of the company. However if you decide to move funds away from*

*Standard Life you must remember that you may be missing out on the possibility of receiving shares in the new PLC should Standard Life demutualise."*

For further information please refer to the Standard Life website –

<http://ukgroup.standardlife.com>



## Treating customers fairly

Most of you will have seen the new buzz word on regulatory updates etc, also known as TCF. This is nothing new; however we thought it would be useful to give you some clarification on what it is all about and what you need to do.

The concept of TCF is that firms should ensure that their customers are treated in a fair manner. This sounds very simplistic, however firms will not find it quite so easy to embed this into their day to day procedures.

The first step which your senior management needs to take is to establish as a firm, what you think constitutes TCF. Ideally you need to set guidelines on how you would like to be treated yourself. Once you have established this, you then need to look at your current procedures and systems to see if they match up to your requirements. If there is room for improvement, you will then need to look at how you intend to put this right, who will be involved in the corrective action, and when you intend to have the corrective action completed.

In order to help we have devised a document for you to follow and complete which should make this whole process relatively painless, these should be available for our clients from January and we will be helping you through the process.

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## GENERAL INSURANCE UPDATE

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We are now nearly a year on from the start of regulation and we at PCS have spent considerable time out in your offices understanding your current challenges. On the whole we have been really pleased with the progress we have seen, but there are a few areas which we have been providing additional guidance and support on. On that basis we thought a quick overview of these areas may be useful:

### **Systems controls and procedures**

The above words are the foundation stones of the FSA and it is important that firms can clearly demonstrate all of the above within their business. You therefore need to look at your company organogram and consider if your current reporting lines reflect what is actually happening within your business. Can you also support this with relevant meeting notes and feedback?

If you are happy with the organogram now look at your current job descriptions, do they mirror the responsibilities and roles which the organogram demonstrates?

Once you are happy with the above the next item to look at is your current internal procedures. Do you have any written

procedures for each of the roles, and if yes are they in an accessible area? Internal procedures not only help to streamline the business but they also ensure that all employees understand what is expected from them when completing their day to day tasks. The FSA will also be very pleased with the as you can demonstrate internal structure, that is as long as you are following them!!

### **Training & Competence**

This is one area where I think that all firms require further assistance. You need to put together a very clear plan of how you intend to run your internal training scheme for both new and existing staff. It is recommended that you run your T&C scheme for all staff, not just those who have client interaction.

We would recommend that you risk rate your staff by using observations, tests or case studies so you can identify their current capabilities and the risk they may be to the business. You can then devise a training scheme which is based on various risk ratings to ensure that your T&C officers time is spent wisely!

Make sure training records are set up for each member of staff, and that they also start recording all training which has been completed.

# Self-certification mortgages - Summary of FSA research

The FSA recently carried out a mystery shopping exercise on the advisory and sales practices of smaller brokers specifically on self-certification mortgages.

On the conclusion of this exercise the following 3 areas were highlighted as areas of concern;

- affordability checks: considering what facts about your customer's income, expenditures and resources (and likely changes to these) you should reasonably be aware of;
- suitability checks: checking the needs and circumstances of your customer; and
- recording the advice given: demonstrating why you recommend a self-certification mortgage (particularly where a borrower can prove income and so a cheaper, more appropriate mortgage may be available).

## The FSA's Findings regarding Suitability

Of the 249 customer files reviewed, 36% recorded either no reason, or the reasoning was unclear, why a self-certification mortgage was recommended.

Where proof of income was available advisers generally failed to record why a self-certification mortgage was recommended rather than a cheaper full-status mortgage.

64% of the files reviewed did not adequately document why the recommended product was the most appropriate taking into account the stated needs and preferences of the customer.

When making a recommendation to a customer, one of the key requirements to meet the suitability requirements of MCOB is for mortgage intermediaries to satisfy themselves that they have reasonable grounds to conclude that a consumer can afford to enter into the regulated mortgage contract

The FSA concluded that *"if an adviser fails to address affordability during its advised sales process then it is unlikely the adviser will be able to demonstrate that his recommendation is suitable."*

## What records should be kept to demonstrate affordability?

The rules state that advisers can generally rely on information the customer provides unless they have reason to doubt it on a common-sense view. The FSA concluded by highlighting ways in which advisers can comply

with the affordability rules in MCOB

*"Some advisers incorporate ways of checking the plausibility of a customer's stated income into their procedures, such as checking bank statements or old payslips. As a minimum, some firms check a customer's stated employer or self-employed status. In other words, they build into the sales process a prompt to consider the plausibility of information provided during the collection of customer information. Other advisers carry out in-depth calculations to assess income against outgoings and document these calculations on the customer file in the form of either a fact-find style document or a separate income and expenditure table. Generally, advisers who use such procedures are also able to demonstrate that they satisfy our broader affordability requirements."*

For the full details and feedback see the link below;

<http://www.fsa.gov.uk/pubs/consumer-research/crpr46.pdf>

# The FSA have updated the market average figures for the menu as of 1<sup>st</sup> December 2005

## How long have do firms have to revise their menus?

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Firms must incorporate these new figures into their menus for applicable product groups. Firms must include the new figures by 1 February 2006.

The FSA have updated the commission calculator with the new market average rates and this can help firms calculate the new figures.

## Which products does this update affect?

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The new menu disclosure document - 'keyfacts about the cost of our services' - was introduced with depolarisation from 1 December 2004. Each firm is required to state in its menu both its own maximum rate of commission and the market average for certain product groups. The market averages for the following groups have reduced by 4% or more and must be amended:

- Annuities
- Personal and Stakeholder pensions regular 10
- Personal and Stakeholder pensions regular 25
- Whole of life assurance – Age 40

Firms advising on these products will need to update their market average rates by 1 February 2006.

## Menu Commission Calculator

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Need to calculate maximum commissions for your menu?

You can either download the new menu calculator or use the web based version on the following link;

Web based menu commission calculator

<https://cola.fsa.gov.uk/Citrix/MetaFrame/default/default.aspx>

For further information see the FSA website update details and NPV's

[http://www.fsa.gov.uk/Pages/Doing/small\\_firms/general/templates/averages/index.shtml](http://www.fsa.gov.uk/Pages/Doing/small_firms/general/templates/averages/index.shtml)

For specific guidance please contact PCS staff



**Finally!**

**May we take this opportunity to wish all our  
Clients a Very Merry Christmas and  
A Prosperous New Year**

