

THE COMPLIANCE JOURNAL

Regulatory Round Up - September 2021



Welcome to the September edition of the Commercial Express Compliance Journal. In this issue we focus on the FCA's Business Plan and have some useful insight from the Financial Ombudsman Service on Flood related complaints.

Helen Holyoake, Risk Compliance and Agency Manager

Click on any of the below to read...



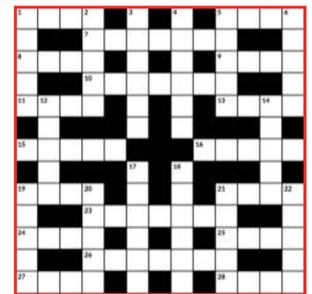
Diversity and inclusion in the financial sector



ICO statement in response to the EU Commission's announcement on the approval of the UK's adequacy



Ombudsman newsletter 163: Flood related complaints



Just for fun

Financial Conduct Authority

Diversity and inclusion in the financial sector:

The FCA has issued a Discussion Paper on Diversity and Inclusion in the financial sector, and is aiming to work with a wide range of stakeholders, within and outside the financial services sector, to understand the best approaches to take. The FCA see Diversity and inclusion as critical to its work on culture and governance, particularly for boards and senior management. For the FCA, it will also be based in existing work around the treatment of consumers, including vulnerability and the proposed new Consumer Duty. The FCA expects to see diversity and inclusion become part of how it regulates and part of how the UK financial sector does business.

The full paper can be viewed at <https://www.fca.org.uk/publication/discussion/dp21-2.pdf>

Handbook Notice!

Insurance Distribution (Professional Indemnity Insurance (Limits of Indemnity) Instrument 2021: Following consultation in CP20/23, the FCA Board has made changes to the minimum levels of professional indemnity insurance (PII) cover required for insurance intermediaries.

The new minimum levels of PII cover are as follows:

- For a single claim against the firm, the limit was increased from €1,250,000 to €1,300,380.
- For the total aggregate of claims against a firm, the limit was increased from €1,850,000 to €1,924,560

The new requirements apply to any PII policy or guarantee commenced, renewed or extended with effect from or after 1 August 2021.

To view in full: <https://www.fca.org.uk/publication/handbook/handbook-notice-90.pdf>

FCA Business Plan 2021/22

In July, the FCA released its 2021/22 Business Plan in which it sets out its priorities for the forthcoming year. Reflecting on the prior year's Business Plan there were 4 key priorities set by the FCA which remain equally as important this year. They were:

- **enabling effective consumer investment decisions**
- **ensuring consumer credit markets work well**
- **making payments safe and accessible, and**
- **delivering fair value in a digital age**

The FCA intends to take these 4 priorities forward this year, as well as:

- **their new Consumer Duty** (currently under consultation),
- **enhancing market integrity** (by reinforcing the effectiveness of UK wholesale markets and enhancing its supervisory approach to specific issues), and
- focussing on 6 important cross market issues; **fraud, financial resilience, operational resilience, improving diversity and inclusion, enabling a more sustainable financial future, and international cooperation.**

Reflecting on the events of the past year, and the rapid and disruptive change in which the financial services industry operates, the FCA sets out how it will continue to transform to become a forward-looking, proactive regulator. The Business Plan sets out 3 distinct changes for the FCA; to become more innovative, to be more assertive (in terms of their own powers and that of others), and to be more adaptive by learning and adjusting their approach. In particular there is a focus on the use of data and technology, and how this will enable the FCA to act more decisively in the interests of consumers.

Within the plan, the FCA provide further detail on how they will change to become faster, more targeted, and more effective in the future by:

- **Setting the bar high to support market integrity and sustainable innovation** – Expecting firms as a minimum to meet the FCA's standards and do the right thing for customers. The FCA make it clear they will intervene so consumers (including those who are vulnerable) aren't unfairly disadvantaged.
- **Ensuring firms start with high standards and maintain them** – Carrying out more intensive assessments of new firms, their financials and business models, and having stronger oversight of firms

who are newly authorised or growing significantly. There is a focus on conduct and governance arrangements.

- **Using new approaches to find issues and harm faster** – Making more use of Data, Information, and Intelligence, to be more efficient and to identify harm, and intervene, more quickly.
- **Tackling misconduct to maintain trust and integrity** – No tolerance for conduct that fails to meet the FCA's standards, is dishonest or unlawful. The FCA will seek to identify poor behaviours and promptly drive them out of financial services to prevent harm to consumers and market integrity.
- **Enabling consumers to make informed financial decisions** – Setting and enforcing standards for the information firms give to consumers, providing consumers with improved information on rule changes, using proactive communications to improve consumers understand of risk, and publish more data about firms to help inform consumers and influence firms' conduct. This will include regulatory data that has not been shared before, and Financial Ombudsman Service complaint and uphold rates.
- **Being Proactive at the boundaries of the perimeter** – Analysing data, highlighting legislative gaps and working with partners where issues are outside the FCA's authority to act.

There is an overall focus on fair value in the paper, and a recognition of delivering fair value in a digital age. The FCA's focus is on ensuring consumers can make informed choices about the products or services they use and that those products and services are of a suitable quality and price. The FCA are already putting in place measures around systems and controls



and product governance from October 2021, following their paper on General insurance pricing practises. In addition, remedies on pricing and automatic renewals will come into force in January 2022. The FCA will also investigate practices, such as 'sludge practices', which make it hard for consumers to cancel a product or service online.

Another area of focus is the new Consumer Duty being consulted on by the FCA, which will see higher standards for a firms culture and conduct, and ensure firms consistently place their customers' interests at the centre of their business. This

includes communications, product design, service, and price. New rules emerging from the consultation are expected to be in place before the end of July 2022.

The full Business Plan can be viewed at:

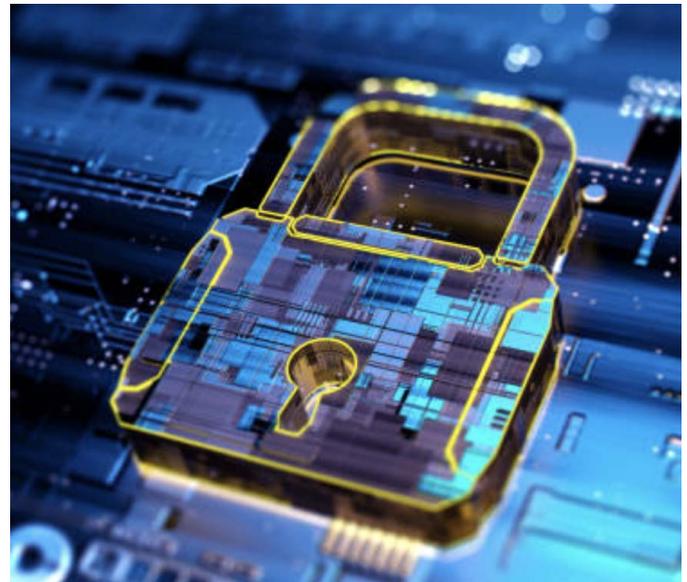
<https://www.fca.org.uk/publication/business-plans/business-plan-2021-22.pdf>

Data Protection

ICO statement in response to the EU Commission's announcement on the approval of the UK's adequacy

The EU Commission has adopted two adequacy decisions for the UK, meaning the EU has determined the UK's data protection laws to be robust enough to ensure data can safely flow to the UK from the EU (and EEA). Personal data can now flow freely from the European Union to the United Kingdom where it benefits from an essentially equivalent level of protection to that guaranteed under EU law. Approved adequacy means that businesses can continue to receive data from the EU without having to make any changes to their data protection practices, and organisations can carry on with data protection as usual. The adequacy decisions include strong safeguards in case of future divergence such as a 'sunset clause', which limits the duration of adequacy to four years.

To see the full article - <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2021/06/ico-statement-in-response-to-the-eu-commission-s-announcement-on-the-approval-of-the-uk-s-adequacy/>



Financial Ombudsman Service

Ombudsman newsletter 163

In light of the recent floods experienced by the UK, the FOS has issued guidance on how they view complaints from consumers who are unhappy with how their insurer has handled their claim for Flood Damage. The guidance sets out how the FOS consider firms should handle complaints received about flood damage claims in an effort to see complaints resolved at the first stage by firms and therefore reducing the amount of complaints that are forwarded to the FOS.

In the guidance, the FOS explain:

- how they will decide whether a flood occurred if there is no definition for flood in the insurers policy wording, when they consider it fair or unfair for a claim to be declined due to a 'gradually operating cause'
- that in some circumstances, they may ask insurers to do more than just repair insured damage if this is necessary to ensure a fair outcome for the customer, for example to make a property watertight to prevent further damage in the future
- what they consider when dealing with complaints regarding alternative accommodation, for example, considering whether it's fair and reasonable for a person to live in a property while repairs are carried out or whether they would consider it uninhabitable. In addition, the FOS state that they expect firms to consider the following when claims are received for Alternative Accommodation: distance from family and friends, number of bedrooms, distance from work and schools, pet friendly properties if the consumer has pets, and any disabilities or medical conditions.

- when they will consider it reasonable for claims for other expenses to be covered, for example increased costs for food, increased travel expenses or laundry costs if a person is forced to stop in alternative accommodation such as a B&B while their home is repaired.

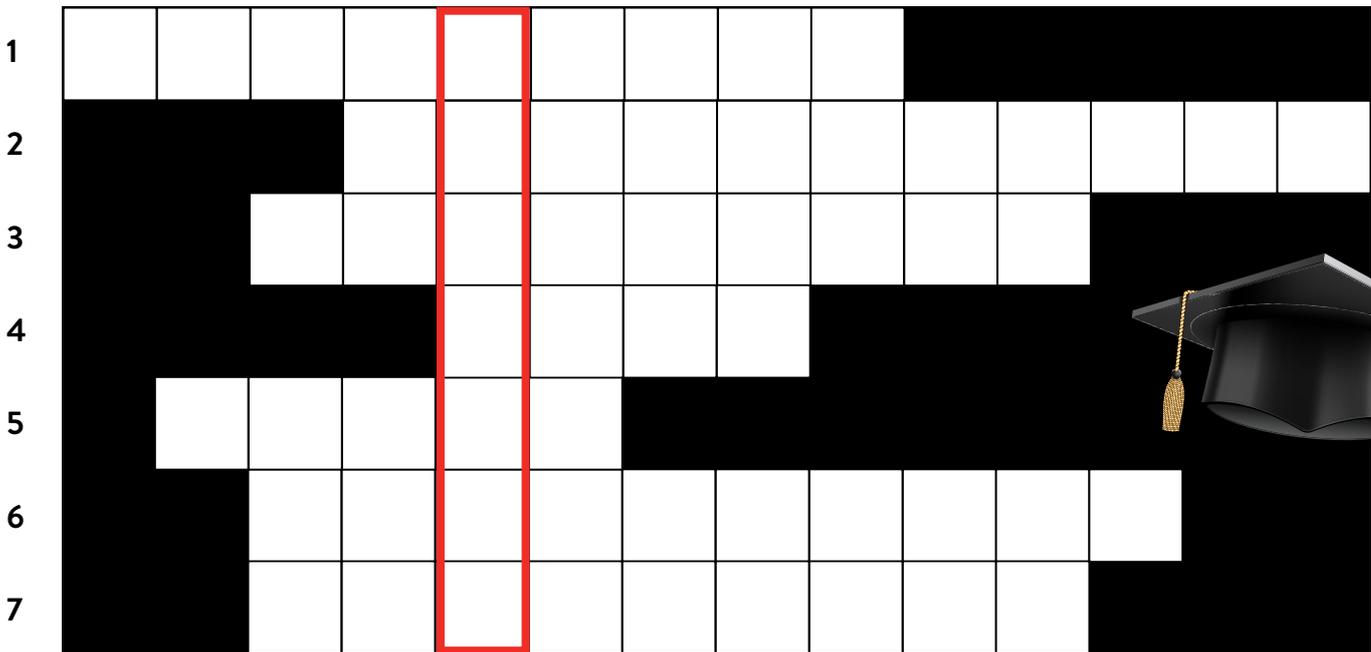
Overall, the FOS expect firms to treat the claimant fairly and handle claims sensitively and efficiently. The general expectation is for the customer to be put back in the position they would have been had the flood not occurred.

The full article and further guidance from the FOS on settling insurance claims can be viewed at <https://www.financial-ombudsman.org.uk/businesses/complaints-deal/insurance/home-buildings-insurance/flood-damage>



Just for fun

The FCA's business plan reminded us of their key objectives and priorities for the next year, and how the FCA are changing for the future. Fill in the blanks below to reveal another key theme for the FCA...



- The FCA must continue to become a forward-looking, _____ regulator
- The FCA promotes effective _____ in the interests of consumers
- The FCA secures an appropriate degree of protection for _____
- The FCA are consulting on a New Consumer _____
- The FCA want firms to offer products and services that offer Fair _____
- The FCA will become more innovative, led by data and _____
- The FCA protects and enhances market _____

Answers
 1. Proactive
 2. Competition
 3. Consumers
 4. Duty
 5. Value
 6. Technology
 7. Integrity
 Missing word: Conduct

This Regulatory Roundup is provided for information purposes only and provides only a summary of the topics contained within it. It should not be considered as legal advice or recommendation.

Commercial Express do not assume any liability for any loss or damage resulting from your reliance on any information contained within this document.

Commercial Express Quotes Ltd is registered in England and Wales at B1 Custom House, The Waterfront, Level Street, Brierley Hill, DY5 1XH. Company No. 03862468. Authorised and Regulated by the Financial Conduct Authority.