

THE COMPLIANCE JOURNAL

Regulatory Round Up - February 2022



Welcome to the first 2022 edition of the Commercial Express Compliance Journal, covering some of the key regulatory updates of the last few months. We have seen some updated and new consultation papers from the FCA and the FOS, and updates from the FSCS. The Office of Financial Sanctions Implementation have also announced some changes to the format of Sanctions Lists. Hope you find the content useful.

Helen Holyoake, Risk Compliance and Agency Manager

Click on any of the below to read...



CP21/34: Improving the Appointed Representatives regime



Dear CEO Letter Insurers: Insurance costs for multi-occupancy buildings



FOS: Our 2022/23 plans and budget Consultation



FSCS: 2022 Budget Update

Financial Conduct Authority

FCA to introduce new Consumer Duty: Back in May 2021, the FCA launched its consultation paper (CP21/13) in which it set out plans for a new Consumer Duty. The FCA was concerned with, and has seen evidence of, practises that can cause consumer harm, such as firms providing information that is misleadingly presented or difficult for consumers to understand, firms presenting information in a way that exploits consumers' behavioural biases, selling products or services that are not fit for purpose, or providing poor customer support. Therefore, the FCA was looking to expand its existing rules and principles, and set a higher level of consumer protection for firms to adhere to.

Following this initial consultation, the FCA have now issued a further consultation paper (CP21/13) in response to the feedback received and outlining revised proposals for a new Consumer Duty. The FCA want to set a higher expectation for the standard of care that firms give consumers. With the

focus being on consumer outcomes and putting customers in a position where they can make effective decisions. The proposals include a new Consumer Principle that 'a firm must act to deliver good outcomes for the retail consumers of its products'. The Principle will be underpinned by new rules, which will ensure a cultural shift in how firms focus on consumers. This should feed through to how firm's design products and services, as well as how they communicate and provide customer service.

The consultation closed 15 February 2022 and the FCA expects to confirm any final rules by the end of July 2022.

[FCA to introduce new Consumer Duty to drive a fundamental shift in industry mindset](#)

Financial Conduct Authority

CP21/34: Improving the Appointed Representatives regime:

The FCA has issued a consultation paper on improving the appointed representatives regime and is proposing stronger requirements on oversight of ARs. The FCA is seeing a wide range of harm where firms have ARs and which often occurs when principals are not carrying out enough due diligence before appointing an AR, or do not have sufficient oversight and control after an AR has been appointed.

In the paper the FCA state that data analysis carried out has identified that, on average, principals generate 50 to 400% more complaints and supervisory cases than non-principals across all sectors where this model operates, demonstrating that there are more issues arising from principals and ARs than from other directly authorised firms. In the consultation paper, the FCA are proposing 2 main areas of change.

- Additional information on ARs and notification requirements for principals, so the FCA can identify potential risks within principals and ARs more easily and can better assess whether the principal has the expertise, systems and controls to effectively oversee its ARs
- Clarifying and strengthening the responsibilities and expectations of principals, so principals are clear on their responsibilities, and the FCA's expectations of how they should act and oversee their ARs

Dear CEO Letter Insurers: Insurance costs for multi-occupancy buildings: In January, the FCA issued a Dear CEO letter to insurers concerning insurance costs for multi-occupancy buildings. The letter follows previous concerns raised by the FCA and other parties regarding the rising cost of insurance for apartment blocks and similar multi occupancy buildings, which are being passed on to residential leaseholders and other affected property owners. The letter acts as a reminder to firms of their obligations to treat customers fairly and act in their best interests and highlights the more recent rules around product governance that came into force in October 2021. The rules require insurance manufacturers to ensure their products meet the objectives and characteristics of the target market and provide fair value, which includes the price having a fair relationship to the benefits provided. Distributors also need to ensure they do not take action that undermines the aim of providing fair value of products, such as commission which doesn't reasonably reflect the costs incurred or the benefits provided, and must not be influenced to propose a policy based on higher commission levels that may be in conflict with the best interests of the customer. The FCA will be collecting information from firms to help inform them on the approach firms take in terms of pricing for multi-occupancy buildings, and will also consider other non-risk price elements such as commissions and distribution costs. This will help the FCA decide whether



In addition to these proposed changes to the regime, the FCA is exploring with HMT whether legislative change is needed and encourages responses to the Call for Evidence that HMT has published today. The consultation closes on 3rd March 2022.

[FCA proposes stronger requirements on oversight of appointed representatives | FCA](#)

further interventions are required to make sure that the non-risk elements of prices are providing fair value and are delivering the intended outcomes of their rules.

[The full Dear CEO letter can be viewed here](#)



Financial Ombudsman Service

Our 2022/23 plans and budget Consultation: In December 2021 the FOS released its consultation paper around its plans and budget for 2022/23. In the paper, the FOS set out the trends in insurance related complaints seen during 2021/22 such as:

- Stabilising numbers of Travel related complaints
- Increased Pet Insurance complaints, due to increased pet ownership during the Pandemic
- More motor insurance complaints since the Covid-19 rules were relaxed

The FOS also expect to see more motor and home complaints as a result of the FCA's work around pricing.

In the consultation the FOS also set out their proposals for its 2022/23 levy, which the FCA will consult in April. Initially when agreeing the budget for 2021/22 the FOS anticipated reduced complaint volumes, which coupled with a programme of increased efficiencies and cost savings, would result in a smaller organisation, and allow the FOS to retain price stability for three years. However, since making the forecasts, complaints volumes have been higher than anticipated, therefore the FOS are proposing the following recommendations for its 2022/23 budget:

Ombudsman News 168 - Insurance pricing and renewals: In its latest newsletter, the FOS set out information on its approach to handling complaints from customers who are unhappy with insurance pricing. This links in with the FCA's recently implemented rules on price walking whereby existing home and motor insurance customers cannot be charged more than new customers for renewing their policy.

The FOS set out that they see a variety of complaints around price such as the premium being calculated incorrectly, misleading information being provided to customers, premium increases following policy changes or at renewal following claims, and customers feeling they have been treated unfairly.

The FOS recognise that they cannot tell a firm what prices they should be charging, however they will consider whether the firm has acted fairly and reasonably when setting a customer's premium and whether the price has been communicated in a way that is clear, fair and not misleading. There are also some specific aspects the FOS will consider such as:

- **Discrimination** - whether a customer has been treated fairly and consistently with a firm's general approach to pricing
- **Misleading Information** - what the customer was told and could they make an informed decision as a result
- **Mistakes** - whether a customer's premium has been calculated correctly, based on the information provided by the customer



- A Compulsory Jurisdiction levy of £106m, £10m up on the last 2 budget consultations
- Decreasing the number of free cases from 25 to 3
- Maintaining the £750 case fee

The Consultation closed on 31st January 2022.

[Ombudsman News 167 \(financial-ombudsman.org.uk\)](https://www.financial-ombudsman.org.uk/news/167)

- **Price increases over time** - whether these have been applied fairly year on year and whether there has been any indication of a customer's lack of engagement or loyalty being taken advantage of
- **Restricted Choice** - whether the customer has been treated fairly if they are unable to change provider

Where the FOS determines that a firm has communicated clearly, fairly and in a way that isn't misleading and it can explain and evidence that the price was reached fairly following their underwriting guidelines, it's unlikely the FOS will ask the firm to do anything to put things right. If the FOS think a firm has made a mistake or treated a consumer unfairly, it will ask the firm to put things right. The general approach is that the customer should be put back in the position they would have been in if the problem hadn't happened. The extent of this will depend on the complaint, and how the customer lost out. In some cases, the FOS may also ask a firm to compensate a customer for any distress or inconvenience they've experienced as a result of the problem.

The full article and further examples of how the FOS approach particular complaints can be found below:

[Insurance pricing and renewals](#)

Financial Services and Compensation Scheme

2022 Budget Update: In conjunction with the FCA and PRA consultation on the Management Expenses Levy Limit (MELL) the FSCS has also issued an update on the proposed budget, which is as per the FCA's consultation paper as outlined above.

In the update, the FSCS also advise that they expect to finish 2021/22 below budget due to fewer firm failures and claims than anticipated, therefore also resulting in reduced costs. On this basis the FSCS do not expect to utilise the unlevied reserve (£15m). Any surplus will be used to help offset the levy for the relevant classes in 2022/23 and will be factored into the spring levy update.

[Our January 2022 Budget Update | FSCS](#)



Sanctions

UK sanctions list: change in format – The structure and format of the UK Sanctions list and OFSI Consolidated List will change from February 2022. The changes involve standardising the data where possible to remove duplication unnecessary punctuation and improve consistency, adding new data fields, changing some

field names so they are clearer and improving the range of data formats the lists are available in. Examples of the amended lists together with full guidance on what is changing can be found here [UK Sanctions List: change in format](#)



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