

THE COMPLIANCE JOURNAL

Regulatory Round Up - June 2020



Welcome to the June edition of the Compliance Journal from Commercial Express, bringing you a summary of regulatory updates from the last few weeks. Understandably, much of the regulators focus is on Covid-19 at this current time, as well as setting out business plans for the year ahead, so we've pulled together some of the key topics being discussed, which we hope you will find of use.

Helen Holyoake, Risk Compliance and Agency Manager



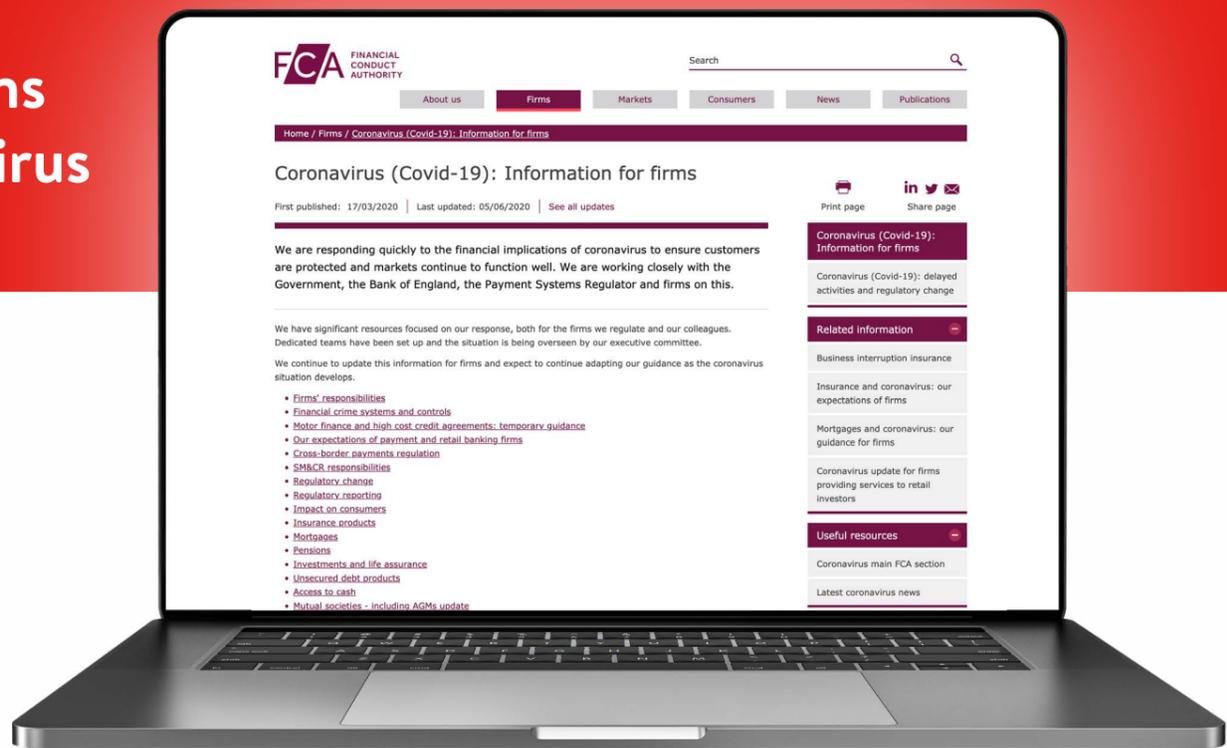
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Financial Conduct Authority FCA updates its expectations of firms during the coronavirus pandemic

As expected, regulatory updates from the FCA have been Covid-19 related throughout May, including draft guidance papers, some of which have now come into force. All information can be accessed from the FCA's website using the links below, but in summary the key areas of focus for GI Firms have been:

- Business Interruption Insurance
- Product Value
- Measures for customers who may be in financial difficulty

For full details see <https://www.fca.org.uk/firms/information-firms-coronavirus-covid-19-response>



Business Interruption Insurance

On the 1st May 2020, the FCA announced its intention to seek legal clarity on business interruption (BI) insurance to resolve doubt for businesses who are facing uncertainty on their claims, supporting their objectives for ensuring consumer protection and market integrity. The FCA are aiming to resolve issues that are causing uncertainty over BI coverage, to provide greater clarity for parties and help ensure there is not undue delay to payments where there are valid claims. Since making its announcement on the 1st May, the FCA have approached 56 insurers and reviewed over 500 relevant policies from 40 insurers, identifying a sample of 17 policy wordings that capture

the majority of the key issues that could be in dispute. Further details of the relevant insurers and policies that may have impacted wordings is expected in July.

The FCA have also now published a short consultation on draft guidance asking all insurers to check their policy wordings against those they intend to test, to see if theirs will be impacted by the outcome of the case. They expect the test case to provide guidance for the interpretation of many other BI policies that are not in the representative sample. The consultation on draft guidance also sets out the FCA's expectations of all firms

handling BI claims and any related complaints between now and the court decision.

Firms are also reminded of their obligations under Principle 6, ICOBS and DISP when handling claims and any complaints arising from them. And where policies have an obligation to pay out, the expectation is that claims are assessed and settled quickly.

Product Value

Early May, the FCA issued a consultation on draft guidance for Insurers and Insurance Intermediaries setting out their expectations for how insurers and insurance intermediaries should consider the value of their products in light of Covid-19. This was a short consultation and final guidance was issued on, and is effective from, 3rd June 2020.

The FCA is expecting firms which are manufacturers and/or product providers to consider whether and how coronavirus may have materially affected the value of their insurance products. The effects of coronavirus may mean that Firms are no longer able to provide expected contractual benefits, either in the expected form, to the expected timeframe, or at

all, or that the chance of underlying insured events happening is reduced e.g., due to Government lockdown or other circumstances connected with coronavirus, therefore affecting the intended value being delivered to customers of certain insurance products.

Firms now have until the 3rd December 2020 to review their product lines and decide on any resulting action. The FCA will be reviewing the guidance within 6 months of it coming into effect.

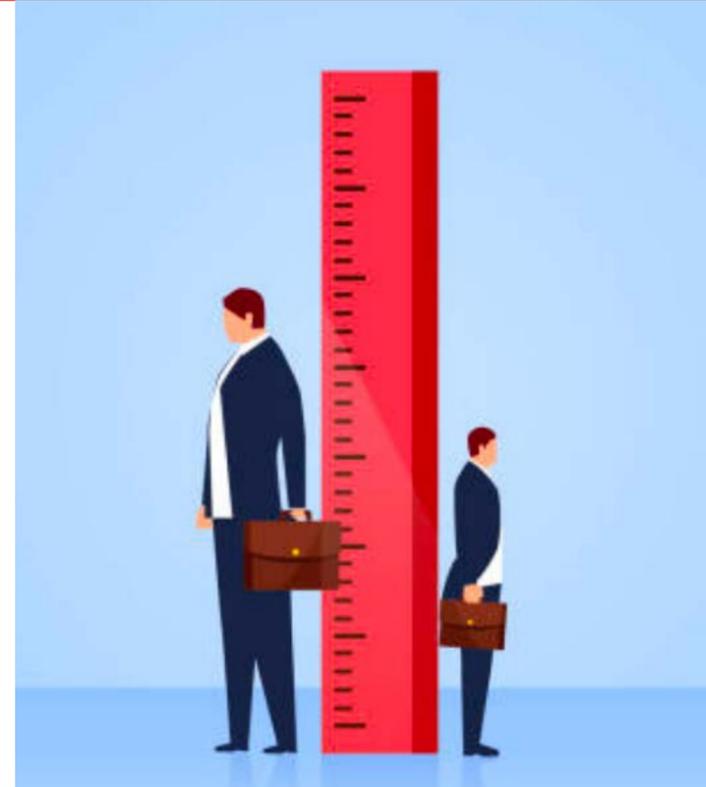


Measures for customers who may be in financial difficulty

On the 1st May 2020, the FCA published draft guidance for insurance and premium finance firms on the fair treatment of customers in temporary financial difficulty as a result of Covid-19. Following a short consultation, the FCA published its Feedback Statement and finalised guidance which was effective from 18th May 2020. The aim of the guidance is to prompt firms to help qualifying customers, where possible, to reduce the impact of temporary financial distress and ensure that customers continue to have insurance that meets their demands and needs.

The guidance sets out actions a firm can take such as re-assessing the risk profile of the customer, considering whether there are other products they can offer which would better meet the customer's needs, and working with customers to avoid the need for cancellation of necessary cover such as by considering payment deferrals and waiving fees.

The FCA will be reviewing the guidance within 3 months of it coming into effect.



FCA Business Plan 2020/21

At the beginning of April, the FCA released its business plan for 2020/21. Areas of note from a General Insurance perspective were:

- A focus on ensuring that markets function well, the most vulnerable are protected, the impact of firm failure is minimised, scams are being tackled, and seeking to ensure customers are treated fairly
- The FCA are looking to transform its own operations for a digital age, so it can make faster and more effective decisions, prioritise end outcomes for consumers markets and firms, ensure a more focused and coordinated approach to information and intelligence across the FCA and Influence internationally on issues that affect UK markets and consumers
- The FCA will be working with Government and stakeholders to shape the future regulatory framework, partly to accommodate Brexit but also noting that the

current framework is too focused on rules and process and not enough on principles and outcomes

- And in its reminder of how the FCA supervises firms, the FCA note that over the coming year they will be shifting their focus towards smaller firms and also those firms that fail to meet required standards, moving more swiftly to take enforcement action where necessary

From a GI perspective there is then focus on ensuring consumers are offered fair value products in a digital age, with pricing practises in General Insurance being noted as an area of harm. In particular, the FCA note the following key outcomes it aims to achieve in the General insurance & protection (GI&P) sector:

- Customers take out GI&P products and services that are suitable for their needs and deliver on their promises at the time of claim

- Customers are not unfairly excluded from GI&P products and services
- Customers get high-quality, fair value, GI&P products and services which deliver on what is intended at the time of claim
- The GI&P sector is operationally resilient and supplies important products and services with minimal disruption to customers and markets

In respect of the FCA's cross sector work, the following topics will be focused on: Brexit, Climate Change, Innovation & Technology, Operational Resilience, Financial Crime, Culture (SM&CR, firms purpose, leadership, approach to rewarding and managing people and governance).

The full business plan can be accessed here <https://www.fca.org.uk/publications/corporate-documents/our-business-plan-2020-21>

Data Protection Information Commissioners Office (ICO) issues advice on working from home and video conferencing

The Information Commissioners Office continues to provide updates regarding the Coronavirus Pandemic and how it will regulate during this time along with publishing various advice for firms. Some useful information been provided around 'Working from home: advice for employers', focusing on video conferencing and IT security checklists. In their blog 'Video conferencing: what to watch out for', Ian Hulme, the ICO's Director of Assurance gives business owners, employers and managers advice about how to safely roll out the latest video conferencing technology. The blog offers 5 tips around the use of video conferencing:

- **Have you checked the privacy and security settings?** Users need to know how their data will be processed, as well as having choice and control over it. Privacy and security features should be made use of which can include restricting access to meetings using passwords, controlling when people can join the meeting or controlling who can share their screens
- **Are you aware of phishing risks?** The 'live chat feature' in video conferencing can be used by malicious people to spread phishing messages. Unexpected or unrecognized links or attachments should not be clicked on or opened
- **Have you checked your organisation's policy?** Video

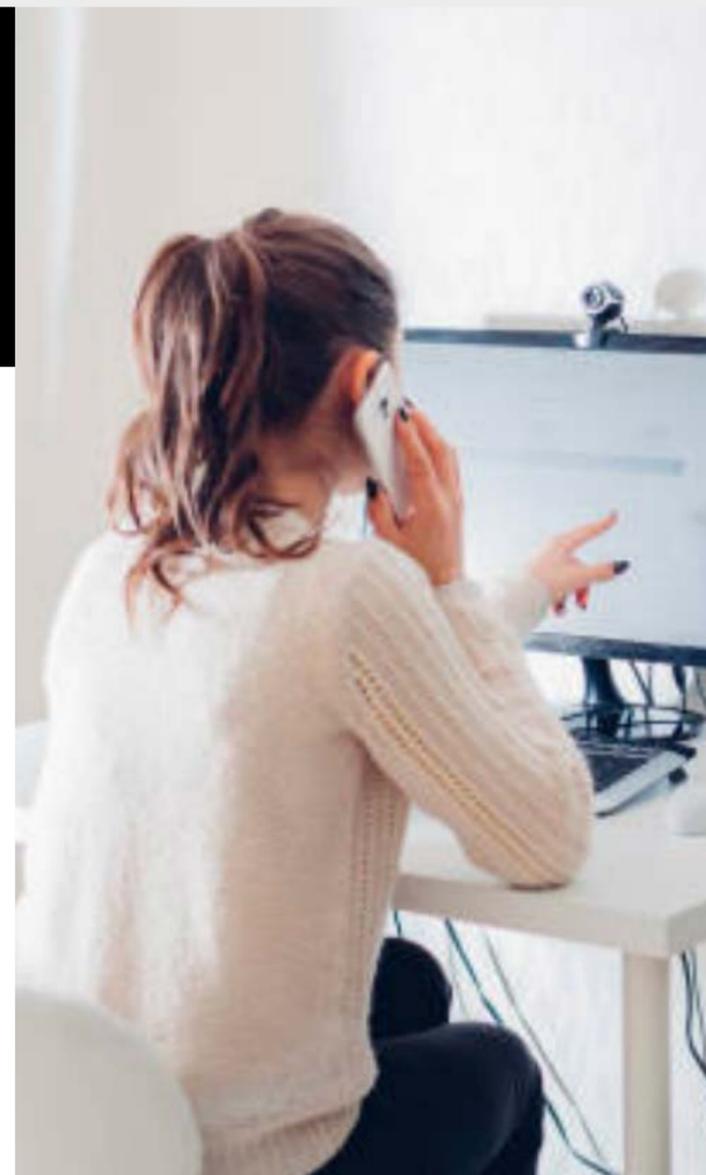
conferencing platforms used should be in line with company policy

- **Have you ensured all software is up to date?** This includes video conferencing software and any web browsers used to access them
- **Is this still the right tool for the job?** A certain piece of software used in an emergency may not be the best solution long term

The ICO have also issued some guidance checklists intended as 'quick checks' to help identify some of the common IT vulnerabilities that are often exploited. Areas covered include consideration of company policies and procedures, staff using their own devices, cloud storage, remote desktops and applications, and email.

To read the full blog use the following link: <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/04/video-conferencing-what-to-watch-out-for/>

Further details on the checklists can be found here: <https://ico.org.uk/for-organisations/working-from-home/working-from-home-security-checklists-for-employers/>



Financial Ombudsman Service Ombudsman News

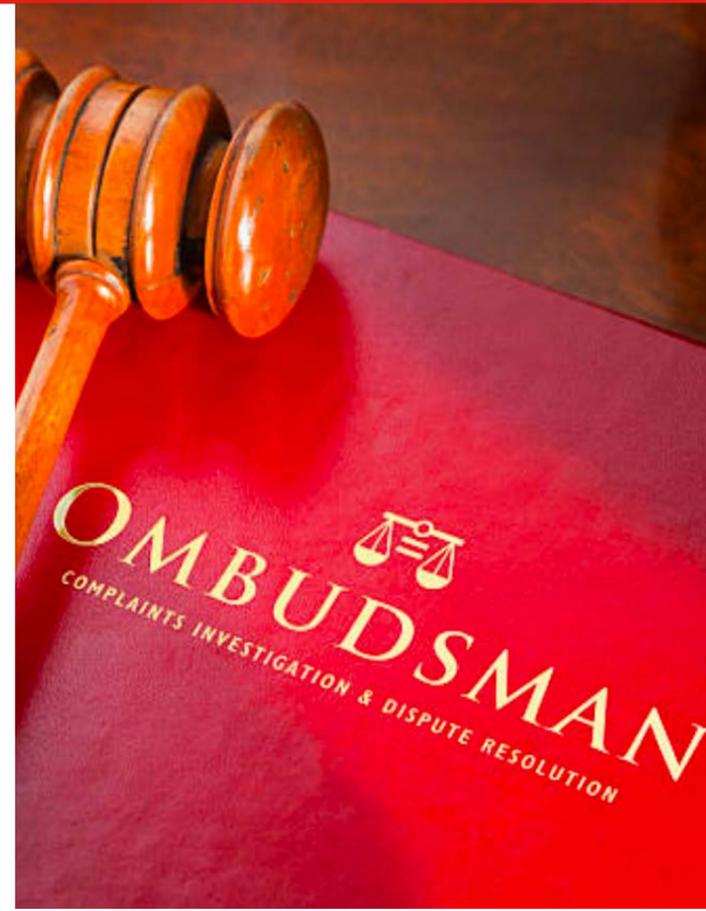
In April, the FOS published their 'Ombudsman News' issue 151 which provided some updates on the FOS award limits and their 2020/21 budget.

From 1st April 2020, the award limits of the FOS changed to the following:

- £355,000 for complaints referred to it on or after 1 April 2020 about acts or omissions by firms on or after 1 April 2019
- For complaints about acts or omissions by firms before 1 April 2019 and which are referred to the FOS after that date, the limit will remain at £160,000
- For complaints referred to the FOS between 1 April 2019 and 31 March 2020 about acts or omissions by firms on or after 1 April 2019, the limit will be £350,000 and for any complaints referred to the FOS before 1 April 2019, the limits will remain at £150,000

The newsletter also confirmed that the Financial Conduct Authority (FCA) has approved the Financial Ombudsman Service's 2020/21 budget. In Summary, the FOS has revised its funding arrangements for the coming year due to the impact Coronavirus is having on firms. The ombudsman service will also maintain the number of "free" cases at 25 (for firms outside the group account fee arrangement). In its plans the FOS confirmed it is focused on bringing waiting times down in response to complaints, aiming to start all investigations within 4 weeks of receipt and will prioritise cases where people are in urgent need of help (i.e. vulnerable). In resolving individual complaints, the dedicated SME casework teams will continue to be supported by a specialist internal practice group and external expert panel.

To read the full newsletter see <https://www.financial-ombudsman.org.uk/news-events/ombudsman-news-issue-151>



Data Protection Wordsearch



Z S Q F I R R Y G A B P G N I K A M
 I Y J H C E E F H N O N X K C N D H
 S Z A E Q C P E S R I I B P M E D T
 P D S M B T K V T I C L U P R P C A
 Z M K E E I J A N S W I I R G I W A
 Y V B T Z F B G O K C A Z F R Z W A
 F Z Y G N I S S E C O R P T O Y H K
 X A N L L C A P R N P W S B A R J X
 T F T I R A C T F D H E J V G N P P
 M U T A O T C T M R R E M N U A S G
 U Y W B D I E Z D E C I S I O N P V
 H Z S K E O S R X T J A D B F U F Y
 O D I F M N S Y A R W T F H Y V H M
 H D M Q R X N Z P S E P J R F W W U
 K W G T O I U M A S U H K N V H N V
 B N M M F S T H U E V R C M B N E B
 A U D C N K K H W K P M E I I D X C
 I Q J Z I Y Z U P O C X F J B B W F

The General Data Protection Regulation (GDPR) provides certain rights for individuals – can you remember what they are?

Fill in the blanks below and then find your answers in the grid to the left – happy searching!

1. The right to be _ _ _ _ _
2. The right of _ _ _ _ _
3. The right to _ _ _ _ _
4. The right to _ _ _ _ _
5. The right to _ _ _ _ _
6. The right to _ _ _ _ _
7. The right to _ _ _ _ _
8. Rights in relation to automated _ _ _ _ _
and _ _ _ _ _.

Answers

1. The right to be informed
 2. The right of access
 3. The right to rectification
 4. The right to erasure
 5. The right to restrict processing
 6. The right to data portability
 7. The right to object
 8. Rights in relation to automated decision making and profiling.

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