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InSure

This month's roundup of developments affecting the insurance industry sees the European Parliament approving Solvency II, the Equality Bill being introduced in the House of Commons, the FSA publishing results from its post implementation review of ICOBS, ...

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General News

Insurers Detecting Record Amounts Of Fraudulent Claims

Figures released by the ABI on 16 April 2009 show that insurers are detecting record levels of fraudulent insurance claims – 2,000 every week, worth £14 million. Yet, one in five people would still be tempted to cheat on their insurance, despite the likelihood of being caught, facing trouble in obtaining financial products in the future, and getting a criminal record.

ABI figures show that in 2008:

- 107,000 fraudulent insurance claims were exposed, a rise of 17% on 2007. The value of these claims, at £730 million, rose by 30% on the previous year;
- dishonest claims on home insurance were the most common, with 55,000 false or exaggerated claims detected. By value, fraudulent motor insurance claims were the highest, --with £360 million saved; and
- 4% of all claims by value (excluding life insurance) were fraudulent, compared to 3% in 2007.

In a separate survey of 3,000 adults carried out for the ABI by YouGov, one in five people admitted that they would not rule out making a fraudulent claim in the future.

Please click [here](#) for a copy of the ABI publication. (Source: *ABI press release, 45/09, 16 April 2009*) - [Back↑](#)

Competition Commission's Talk To BBA On The PPI Remedies Process

Peter Davis, Deputy Chairman and Inquiry Group Chairman of the Competition Commission, gave a talk to the British Bankers Association on the Competition Commission's investigation into payment protection insurance and the remedies process. The remedies



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package will be implemented under a document known as the PPI Order. Dr Davis said that, between April and May 2009, the CC intends to consult informally (with the main parties and key third parties) on a draft PPI Order.

Please click [here](#) to access the speech. (Source: *Peter Davis, Talk to the British Bankers Association, Pinner Hall, February 24 2009*) - [Back↑](#)

ABI Launches Pension Insurance Guide As Market Grows By 50%

Bulk Insured Pension companies (commonly known as 'buy-out firms) reported over £22 bn funds under management to the end of 2008, according to new figures released by the ABI on 15 April 2009. The pensions of over half a million people are now covered by these funds. Responding to the increased interest, the ABI has produced a guide for trustees and companies explaining how Bulk Insured Pensions work.

In the guide, the ABI explains that a Bulk Insured Pension is the term for the purchase of a long-term insurance policy by the trustees of a *Defined Benefit* pension scheme to cover and protect scheme members' pension rights.

There are two main changes for members of a scheme which becomes fully covered by an insurance policy. Firstly, their pension guarantee moves from a sponsor's promise to a contract with an insurer. As well as using a company with experience in managing pension risks there is also the reassurance that insurers are regulated by the FSA and are required to hold large amounts of capital to meet their liabilities. Secondly, members are covered by the Financial Services Compensation Scheme, giving consumers a higher level of protection.

Please click [here](#) for more information. (Source: *ABI press release, 44/09, 15 April 2009*) - [Back↑](#)

New Legislation & Consultations

European Parliament Approves Solvency II

On 22 April 2009 the European Parliament published a [press release](#) announcing the approval of the final text of the Solvency II Directive in its session in Strasbourg. Formal adoption of the Directive is expected at the

meeting of the Economic and Financial Affairs (ECOFIN) Council in May 2009.

According to rapporteur Peter Skinner (PES, UK) the aim of the approved legislation is to help ensure the financial stability of insurance (and reinsurance) companies by introducing more sophisticated solvency requirements which will take better account of the risks the companies must deal with: insurance risks as at present, but also market, credit and operational risks.

Importantly, the European Parliament dropped provisions on group support as the European Commission had originally proposed. In a European Commission [press release](#) Internal Market and Services Commissioner Charlie McCreevy said: "*I considered the group support regime to have been one of the most innovative aspects of the proposal and a key element in the modernisation of the supervisory arrangements for cross-border insurance and reinsurance companies. I personally regret that it is not now part of the package. I hope however that this will be rectified in due course.*"

Member States will have to transpose the new directive by 31 October 2012 at the latest.

The adopted text can be accessed via the following link.

(Source: *European Parliament, press release, REF.: 20090421IPR54086, 22 April 2009*) - [Back↑](#)

FSA Implements Changes To Simplify Financial Services Compensation Scheme

On 24 April 2009 the FSA published PS 09/7 'Financial Services Compensation Scheme: Review of limits' setting out the final rules of the scheme. The changes to compensation limits were proposed in [CP 08/15](#) published in October 2008.

The changes, which come into effect from 1 January 2010, mean the compensation limit for investments, home finance advice and deposits will be the same at £50,000 and all claims for non-compulsory insurance will be paid at 90%, with no upper limit.

- Investments: Provision and mediation of investments: protection for 100% of £50,000 (currently 100% of the first £30,000 and 90% of the next £20,000).
- Home finance mediation: Advising on or arranging house purchase finance: protection for 100% of £50,000 (currently 100% of the first £30,000 and 90% of the next £20,000).



- Insurance: Non-compulsory insurance provision (both general and life insurance): protection for 90% of the claim, with no upper limit (currently 100% of the first £2,000 and 90% of the remainder, with no upper limit). Mediation of non-compulsory general insurance and pure protection contracts (term, critical illness and income protection insurance): protection for 90% of the claim, with no upper limit (currently 100% of the first £2,000 and 90% of the remainder, with no upper limit). There will be no change to compulsory insurance, such as motor third party and employers' liability insurance, including mediation. This will remain at 100% protection with no upper limit.

[PS 09/7](#) can be found on the FSA website. (Source: [FSA press release](#), FSA/PN/054/2009, 24 April 2009) - [Back↑](#)

Regulatory Developments

[Post Implementation Review Of ICOBS: Oral Disclosure Rule In Sales Of Critical Illness Cover – Baseline Survey](#)

On 15 April 2009 the FSA published a consumer research paper on oral disclosure rule in sales of critical illness cover (**CIC**). The research explored in this report is the first stage in testing whether improved oral disclosure, arising from the implementation of ICOBS standards, allows better consumer understanding of critical illness cover. This report sets out the FSA's baseline data for this analysis (from sales in 2008 Q2) and suggests that many of the disclosure problems found in our 2006 mystery shopping study of CIC sales persisted into 2008 and with them the need for better quality oral disclosure.

The new requirements include ICOBS 6.4.2, which states that during a sales dialogue with a consumer on a main characteristic of a policy, the firm must also provide oral information on all the policy's main characteristics. In doing so, the firm must ensure that the oral information is sufficient to enable the consumer to make an informed decision, without overloading them or obscuring other parts of the information. Based on these baseline results, the challenge for firms that have

not already done so is to implement the ICOBS standards in a way that contributes to an informed decision. The areas of misunderstanding identified in this research point out some areas for firms to focus on.

Please click [here](#) for a copy of the paper. (Source: *FSA Consumer Research 77*, 15 April 2009) - [Back↑](#)

[FSA Annual Financial Crime Conference](#)

The FSA published two speeches on its website which were given at its Annual Financial Crime Conference on 27 April 2009:

Margaret Cole, Director of FSA Enforcement, [reiterated](#) what credible deterrence is all about and gave an update on what the FSA is doing to put it into operation. She emphasised that delivering credible deterrence remains the focus in the FSA Enforcement Division and that she does not expect this to change any time soon.

Sally Dewar, Managing Director of the FSA Wholesale Division, [set out](#) the FSA's approach to tackling financial crime and how the FSA can help firms in the fight by focusing on four key themes, namely:

- the FSA's outcomes focused, risk based approach to financial crime;
- what the FSA sees as some of the most serious financial crime risks as outlined in its Financial Risk Outlook;
- the FSA's credible deterrence strategy; and
- the FSA programme of work to raise consumer awareness of financial crime.

(Source: *Speech given by Margaret Cole and Sally Dewar on 27 April 2009 at the FSA Annual Financial Crime Conference*) - [Back↑](#)

[ABI Publishes Trade Credit Insurance Statement Of Principles](#)

On 21 April 2009 the ABI published a new *Statement of Principles on Trade Credit Insurance*, which sets out how trade credit insurers operate and what their clients can expect from them. The Statement of Principles includes:

- an overview of how risk assessment decisions are made;
- a commitment to provide, on request, reasons for a decision to stop or substantially reduce



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credit insurance cover, and to swiftly resolve appeals against decisions; and

- a commitment to work with banks and companies to maximise the potential for UK companies to continue to trade as viable businesses.

According to the press release the latest ABI figures show that in Quarter 4 2008, the number of trade credit insurance claims rose to 8,366, up from 5,540 in Quarter 4 2007 – an increase of 51%. The value of claims incurred in 2008 was £360m, up from £257m in 2007. Meanwhile, the total value of turnover insured increased to £302.5bn in 2008, up from £282bn in 2007. This demonstrates the commitment of trade credit insurers to support their clients when trading is difficult, by providing them with as much cover as possible and carefully monitoring their risks.

Please click [here](#) for a copy of the principles. (Source: [ABI press release, 46/09, 21 April 2009](#)) - [Back↑](#)

Handbook Development Newsletter No 110

On 24 April 2009 the FSA published Handbook Development Newsletter No. 110. This newsletter contains:

- information about recent Handbook-related and other developments;
- information about recently issued Handbook-related and other publications;
- an updated timetable for forthcoming publications;
- information about Consumer publications; and
- a link to the FSA Events web page which provides information about forthcoming conferences and training events.

Please click [here](#) for a copy of the Newsletter. - [Back↑](#)

Handbook Notice No 87

On 24 April 2009 the FSA published Handbook Notice No. 87 introducing the Handbook and other material made by the Board under its legislative powers.

On 23 April 2009, at its normal monthly meeting, the FSA Board made five instruments which:

- make minor administrative corrections to the Handbook, none of which represents any change in FSA policy (FSA 2009/22);
- implement the provisions for firms paying application fees to the FSA in respect of the new Payment Services regime (FSA 2009/23);
- introduce a new banking conduct of business sourcebook (FSA 2009/24);
- introduce new compensation limits for investments, home finance mediation and insurance (FSA 2009/25); and
- make amendments to the Enforcement Guide to provide guidance to firms which choose to provide the FSA with a copy of an investigation report commissioned by the firm in anticipation of potential FSA enforcement action (FSA 2009/26).

Please click [here](#) for a copy of the Handbook Notice. - [Back↑](#)

General Legal Issues

Equality Bill

On 24 April 2009 the Equality Bill was introduced in the House of Commons and it was published on Monday 27 April. The Equality Bill is expected to come into force from autumn 2010.

In summary, the Bill makes provisions:

- to reform and harmonise equality law and restate the greater part of the enactments relating to discrimination and harassment related to certain personal characteristics;
- to enable certain employers to be required to publish information about the differences in pay between male and female employees; to prohibit victimisation in certain circumstances;
- to require the exercise of certain functions to be with regard to the need to eliminate discrimination and other prohibited conduct;
- to make it unlawful (with certain exemptions) to discriminate against a person because of



- certain characteristics (including age and disability) when providing services;
- to enable duties to be imposed in relation to the exercise of public procurement functions; and
- to increase equality of opportunity and for connected purposes.

Please see below for more information, documents and relevant downloads:

- [The Equality Bill and Explanatory Notes](#)
- [A Fairer Future- The Equality Bill and other action to make equality a reality](#)
- [Impact Assessment](#)
- [Equality Impact Assessment](#)
- [Easy Read](#)
- [Assessing the Impact of a Multiple Discrimination Provision](#)
- [Press release](#)

Commenting on the publication of the Bill, the ABI [warned](#) that "outlawing the use of age would lead to higher insurance costs for all customers, as insurers would have insufficient information to fully assess the risk, and less choice for consumers."

(Source: <http://services.parliament.uk/bills/2008-09/equality.html>, 27 April 2009) - [Back↑](#)

European Commission Recommendation On Remuneration

On 29 April 2009 the European Commission published two recommendations on remuneration in the financial services industry:

- Recommendation on the regime for the remuneration of directors of listed companies, complementing previous Recommendations 2004/913/EC and 2005/162/EC sets forth that an appropriate remuneration policy should ensure pay for performance and stimulate directors to ensure the medium and long term sustainability of the company.

The full text of the Recommendation is available at:

http://ec.europa.eu/internal_market/company/directors-remun/index_en.htm

- Recommendation on remuneration in the financial services sector advocates Member States to ensure that financial institutions have remuneration policies for risk-taking staff that are consistent with and promote sound and effective risk-management.

The full text of the Recommendation is at:

http://ec.europa.eu/internal_market/company/directors-remun/index_en.htm

(Source: *European Commission, rapid press release IP/09/674 and IP/09/673, 29 April 2009*) - [Back↑](#)

European Commission Consults On Remuneration Policies

On 29 April 2009 the European Commission Services published a working document on remuneration for consultation. The document sets out proposals which, however, are only an indication of the approach the European Commission may take and do not represent the Commission's final policy position.

In particular the European Commission calls for responses to the following questions:

- To what extent do your existing remuneration policies comply with the requirements of the proposals?
- To the extent that they are not compliant with the proposals, please indicate in which areas will you need to modify your policies to bring them in line with the proposals;
- Please indicate whether, and to what extent, modification of your policies will imply incurring additional costs. Please distinguish between one-off and recurrent costs.

Please click [here](#) for a copy of the document. (Source: *European Commission, working paper on Remuneration Policies, 29 April 2009*) - [Back↑](#)

Financial Markets And Insolvency Regulations 2009

On 7 April 2009 HM Treasury published Statutory Instruments 2009 No. 853, the Financial Markets and Insolvency Regulations 2009. The Regulations will come into force on 15 June 2009.

As the accompanying explanatory memorandum clarifies, the Regulations change the insolvency regime that applies to any exchange which is a "recognised



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investment exchange” (RIE) and any central counterparty clearing house which is a “recognised clearing house” (RCH) within the meaning of the Financial Services and Markets Act 2000. The amendments comprise:

- a broadening of the definition of “market contracts”;
- inclusion of default fund contributions;
- provisions amending Part 7 of the Companies Act 1989 so that it takes account of administration on a basis equivalent to bankruptcy and winding up;
- provision to ensure default rules refer to and take into account cross margining agreements; and
- provisions enabling the extension of the default rules of RIEs and RCHs so that a surplus held on a house account of a member may be used to make up a deficit on the client account of the same members.

Please click [here](#) for a copy of the Statutory Instruments. (Source: *Explanatory Memorandum to SI 2009/853, 7 April 2009*) - [Back](#)

If you wish to discuss any of the above, or for more information, please contact one of the Insurance and Reinsurance Group



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