

Compliance News – FOR IFAs

'We are committed to providing IFAs with a periodic free newsletter and value for money additional services – Please support us!'

MARCH 2010 Edition

Welcome to Compliance News

This publication is issued by Compliance News Limited for the benefit of IFAs and employed Compliance staff in the UK, particularly those working at directly authorised IFA firms. For a copy of all earlier editions please visit: <http://www.fsresourcing.co.uk/compliance-news.php>

Background of the editor:

Phil Dibb worked at PIA/FSA from 1997 to 2002 and now runs his own Compliance Consultancy firm. He spends the majority of time training IFAs on compliance and T & C issues, in addition he is Chairman to 15 regional Compliance forums held around the UK and also a member of the Association of Professional Compliance Consultants.

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Distribution:

This bulletin is now issued to over 10,000 IFAs who have been in contact with Compliance News since Phil Dibb left the FSA. The aim is to get the distribution up to 12000. If this can be achieved, more free updates and assistance will be available to the readers. To this end, please would you ask any other IFAs you know to register for the bulletin by emailing compliance@ifahelpline.co.uk

Compliance News Premier Service

IFAs can now subscribe to receive a wide range of **forms and templates** to assist with the running of their business. See page 6 for full details. All forms will be issued direct to subscribers and most are on a word document. We plan to issue a **minimum of 50** templates / forms during the next 12 months, from only £175 for the year. We hope this service will save a typical firm at least 50 hours each year and avoid 'reinventing the wheel'. Recently issued documents include:

- Reclaim of commission agreement
- Short observation forms – fact finding and presenting
- Example Board meeting minutes
- Log of client files in & out of office
- Drawdown review document

Why not email compliance@ifahelpline.co.uk and receive it direct to your PC?

Disclaimer: Compliance News is a trading style of Compliance News Limited. Compliance News cannot be held responsible for the views and interpretations shown in this publication. Authorised firms remain responsible for complying with the FSA requirements and such obligations cannot be transferred to a third party. Errors and omissions excepted.

1. SETT VALLEY – FSA FINE – A MUST READ FOR IFAs & THEIR STAFF

The FSA have recently fined Sett Valley a total of £49,000. Whilst the FSA process reads as if it was quite drawn out, the action appears to have been as a result of an initial poor TCF assessment. This fine and the related information is an absolute must read for all IFA business owners, Directors and those who hold Senior Management Responsibilities. The failings cover a wide range of areas but include

poor fact-finding, inadequate systems and controls, no adviser assessments / file checks, no proof that Disclosure Documents were issued, acting outside scope (Pension Transfers) and a general poor level of Compliance.

Please may we suggest that you review the links below and provide copies to your staff.

http://www.fsa.gov.uk/pubs/final/sett_valley.pdf

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2010/014.shtml>

2. TCF ASSESSMENT – COMMON FSA ISSUES

A large number of IFAs have now been assessed as part of the FSA's program. We have devised a list which we believe to be the most common identified across the UK. Compliance News Premier

Service subscribers already received this in February 2010.

New subscribers will receive a list of these common issues and our related documents will also assist in preparing firms for a possible assessment.

2. TCF ASSESSMENTS – STOP PRESS

Just as we finalise this edition of Compliance News, we can report that the FSA have launched their next round of TCF assessments. To our best knowledge, the three areas for assessments during **May & June 2010** are Leeds / Bradford, Preston area and Cardiff. For these areas there will be FSA Roadshows before the face to face football stadium assessments.

The action reported above could well be repeated across the UK, with an increased number of firms receiving a notification that they are required to attend a football stadium for a TCF 'one to one' with the FSA. From our knowledge (and please also see the details in the Sett Valley fine), firms should ensure they are properly prepared for such an

assessment. For the majority of firms, spending an additional ten hours or so, improving and enhancing their existing TCF program will be time well spent. Instead of the remedial action (and worse) which the FSA could insist on.

To assist firms to measure their own progress and work to date, we are able to offer a telephone assessment, with a follow-up short report highlighting any areas we believe should receive further attention. The cost for Premier Service members is £250 and £325 for non-members (these costs relate to IFAs with less than 15 RIs).

For more information, please send us a brief email with 'TCF Progress Assessment' in the subject box.

3. REMOTE FILE CHECKING SERVICE / INTRODUCING KATHERINE HORGAN

We are pleased to announce that Katherine Horgan joined the Compliance News team on the 1st March 2010. With over 18 years Financial Services experience (12 years at Sesame / Sesame Direct), Katherine will be a great asset to the team. We are to launch a separate file-checking company (Just CRS Limited – CRS: Compliance Review Service). We are looking to provide remote file checking to between 25 and 30 IFA firms. The review costs are £65 per client file review / single transaction (additional £30 per additional transaction

which you require to be checked) with a summary sheet (excluding multiple transaction files or higher risk cases such as drawdown or PP switching). £95 per drawdown / Structured product / PP switching (up to 3 into 1). The £95 fee includes us using the FSA templates.

Please would you email us to register your interest. We expect the average firm to require between 2 and 5 cases reviewing each month, but will be happy to review cases on an ad-hoc basis

4. NEW T & C 'SHORT' OBSERVATION FORM

We have designed a short version of a T & C observation form. Whilst these are not intended to replace the longer forms, which cover more detail, the main focus is to enable Supervisors to record some of

their observation activity on one page per meeting (SOAP – Summary On A Page). These were issued to Premier Service members automatically In February 2010. New subscribers will also receive these automatically.

5. UNFAIR CONTRACT TERMS – COMMISSION CLAWBACK

The FSA issued a specific warning about such terms on the 18th January 2010. For those who can recall the PIA Rulebook, to assist firms there was suggested wording provided to firms for the Terms of Business letter. The FSA do not like the wording which allows IFAs to attempt to get the client to repay any clawback of commission (specifically.... The FSA said *'they did not clarify the amount that could be reclaimed from the consumer or the timeframe in which the firm could reclaim this amount'*. Whilst this is a contentious area for some firms, it is now a sufficiently

explicit warning from the FSA that action must be taken. To assist firms, we have designed a sheet which we believe should assist in many cases. However, please note we believe that the figures (reducing client liability) must be bespoke and specific in every case. As this is relatively new we must stress that we expect the use of this to be extremely rare and that post RDR the marketplace will have changed significantly.

Premier Service subscribers will automatically receive a copy of this document (see item 20 to subscribe).

<http://www.fsa.gov.uk/pubs/other/clawback.pdf>

6. THE IFS DIPLOMA – A REAL ALTERNATIVE?

We are proud to say that we have no financial connection or conflict of interest with either the CII or IFS. However, it is in our own interest that as many firms as possible are able to operate after 31st December 2012. As many IFAs are struggling with some of the JO papers, we have taken a closer look at the IFS Diploma (link below). We believe it is a real alternative to the CII Diploma and should be strongly considered, especially

<http://www.ifslearning.ac.uk/>

by those who will struggle with the technical aspects (some might say 'memory tests') of the JO papers. We have obtained an excellent set of slides from the IFS for our subscribers. This gives a lot more detail. Should you wish to receive a copy of the slides please email us with 'IFS Slides' in the subject box. We understand the cost of the course is in the region of £600 (additional costs may be payable for re-takes).

7. UPDATED 'KNOWLEDGE' TEST FOR IFAs

We are in the process of updating our annual knowledge test for advisers and plan to issue this to Premier Service subscribers by the 31st March 2010. This may help if you are planning a similar exercise. In addition, this year we will also write a specific answer sheet (on word) to

assist with marking. The new paper has the new ISA limits / Nest – Personal Accounts / ETF's / VCT's / changes to the state pension age as new areas. Premier Service subscribers will automatically receive a copy (see item 20).

8. FSA AND FSCS BUDGET ANNOUNCEMENT / INTERIM LEVY

As most firms will know, it is looking like firms will be facing a significant additional levy from the Financial Services Compensation Scheme. Various interested parties are now looking to act / assist the IFA community. Whilst we do not have the power of others we have

made interim enquiries as to who IFAs can contact. In addition, the FSCS press office have agreed to try and help if we send them a list of questions. If you would like us to add your questions to our list, please email us asap. Also shown are the links to specific web pages.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2010/025.shtml>

http://www.fscs.org.uk/uploaded_files/Publications/press-releases/2010/press_release_plan_and_budget_2010-11_feb_2010.pdf

<http://www.aifa.net/media-centre/press.php?id=214>

9. MORTGAGE ADVISERS – WILL THEY BECOME APPROVED PERSONS?

The FSA are currently consulting on whether Mortgage advisers should hold a 'Controlled Function'. As most people will know, this generally means a higher level of scrutiny and greater focus on 'fit & proper' issues. Whilst we are not HR lawyers, we believe that anyone recruiting mortgage advisers must consider this

issue. Should any new contracts of employment make reference to the individual obtaining FSA approval as a condition? The link below provides more information. The proposed timescale is that the FSA will start accepting applications early 2011.

http://www.fsa.gov.uk/smallfirms/resources/one_minute_guides/72_mmr_apc.shtml

10. TAX ADVICE GIVE BY IFAs – GENERAL WARNING GIVEN BY HMRC

Any IFAs who provide tax advice should have a quick review of a recent HMRC consultation document.

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageLibrary_ConsultationDocuments&propertyType=document&columns=1&id=HMCE_P ROD1_029995

11. STRUCTURED PRODUCTS – FSA SUITABILITY TEMPLATE

For those firms who advise on / arrange Structured Products we strongly recommend that you consider using the FSA suitability template. However, please

note that it is very time consuming and could take anything from one to three hours per case, to complete the ten page form.

http://www.fsa.gov.uk/smallfirms/your_firm_type/financial/library/structured.shtml

http://www.fsa.gov.uk/pubs/other/sip_template.pdf

12. FINANCIAL SERVICES TRAINING ACADEMY – The launch of a new initiative

We are pleased to announce our relationship with the new 'Financial Services Training Academy' (FSTA). To launch the FSTA, three technical and informative events have been arranged. The technical sessions will include training from Aviva, Just Retirement and MGM Advantage on the proposed topics:

- Current economic conditions, investment markets and implications for advice.
- Changing Pensions legislation, both proposed and actual.
- Comprehensive appraisal of the changing pensions landscape and ramifications for advice.
- Considerations for clients as they approach retirement and prepare to draw income.
- Alternative sources of income.
- NEST (Personal Accounts) - Opportunity or threat?
- Annuities for those with health conditions or for those with a poor medical history.
- Appraisal and opinion around the global markets and outlook for specific sectors and markets.

Cost: The cost per person for these half-day sessions is £47.

Dates and venues:

12 May 2010 - Yorkshire

18 May 2010 - Watford

20 May 2010 - Midlands

To register your interest for any of these events please send an email to:

compliance@ifahelpline.co.uk

with 'FSTA Events' in the subject box.

www.fstrainingacademy.com

13. DATA SECURITY – CLIENT FILE LOG IN / LOG OUT SHEET

We have designed a record sheet to assist firms record when client files are removed from the office. The FSA would expect that firms have robust procedures to ensure their records are safe and secure and that firms are aware of which files are out of the office. It may also be

worth discussing this situation with PII firms, to check whether they have any specific requirements.

New subscribers to the Premier Service (see back page) will automatically receive a copy.

14. COMPLIANCE TRAINING COURSE – BESPOKE FOR IFA'S AND THEIR STAFF

Many of our readers will recall that Phil Dibb ran a large number of these courses a couple of years ago. Due to popular demand, we will again run these across the UK. The initial plans are to run 10 to 20 sessions. The course will be a full day (9.30am to 4.45pm) and cover all key aspects of IFA Compliance.

more pro-active role on the Compliance front. The cost is planned to be in the region of £190 per person.

Should you be interested in receiving more information (no obligation) please email us with 'Compliance Course' in the subject title.

It will be specifically designed for business owners and back-office staff to take a

15. JO5 REVISION COURSES – April 2010 – Please act quickly

The Financial Services Training Academy are running three JO5 courses during April 2010, ready for the exam on the 22nd April 2010 (North, Midlands & South). Due to the short space of time available, if you are interested in booking on a course please contact Gary Hainsworth directly (Telephone 07535 717337).

If you wish to be kept informed about all future JO revision days, please email us with 'JO' in the subject box to receive further details.

We can now report that the April **JO8 courses are fully booked.**

16. GABRIEL ASSIST

Compliance News is also pleased to advise we have gained sufficient support to offer a service to assist firms complete their GABRIEL returns.

This service will be specifically helpful with firms of 1-6 advisers, with a turnover of less than £1million, who do not operate in Europe via MiFID and do not hold client money.

The cost for this service is £185 for Compliance News subscribers and £250 for non subscribers. We will provide significant assistance with firms who have the financial information but require assistance in the completion of the GABRIEL document.

Please email the following address for further information:

compliance@ifahelpline.co.uk

17. FS RESOURCING... THE NO RISK RECRUITER

After a few quiet months we are re-launching this activity as candidates and employers begin to re-enter the market. We are pleased to inform you that John Tarazi from Simply Biz has joined us and will be the main contact at FS Resourcing.

Did you know that over 70% of our placements made are never advertised?

Unlike the vast majority of recruitment consultants they fully understand the many different roles connected to IFA firms and will not waste time introducing unsuitable vacancies / candidates. Between the 2 Directors at the firm the following qualifications are held. G60, G10, G20, H15, CeMap, CeFA, FPC and Cergi. Can your recruitment firm match those?

If you would like to discuss your career or recruitment needs in more detail then please contact John Tarazi on the numbers below.

A number of the Authorised firms we work on behalf are looking for quality staff for the following roles:

Compliance Managers	Compliance Analysts	Regulatory Risk Analysts
File-checking staff	Paraplanners	IFA Administrators
Salaried IFA's	Compliance Assistants	GI Compliance Staff

For more information please contact John Tarazi or Phil Dibb on
0113 2583111 or 07909 512693 or email

john@fsresourcing.co.uk office@fsresourcing.co.uk

www.fsresourcing.co.uk

18. MISCELLANEOUS COMPLIANCE ISSUES

Consumer Credit licence – A new one at £970?

A number of our firms have queried the new cost of a licence at £970. Do they still require one? Does the FSA Regulation of mortgages change things? Below are a few points which could assist.

http://www.ofg.gov.uk/shared_ofg/business_leaflets/credit_licences/ofg147.pdf

Page 19 on the above link states: *'Since 31 October 2004, introducing people to lenders or other credit brokers for the purposes of obtaining a first charge mortgage has not generally constituted credit brokerage. In many cases, this activity is instead regulated by the FSA (for further details see 'Where to go for more information' on page 32).* Source OFT Leaflet.

We are in the process of writing additional guidance on this topic. This will be automatically issued to all Premier Subscribers.

Cancelling your FSA authorisation or Varying your Permissions

Readers are reminded that if you are looking to cancel your FSA authorisation or vary your permissions, you need to do so before **31 March 2010** to avoid paying the full annual fees for 2010/11.

If you apply after 31 March 2010, you will have to pay the full amount as there are no pro-rata refunds.

http://www.fsa.gov.uk/smallfirms/resources/regulation_roundup/index.shtml

Supervisor Refresher Courses

We are now planning the next round of courses. This is an all day course, covering the key elements of Training & Competence and how they affect IFAs. We will cover a wide range of T&C topics, including observations, different levels of monitoring, risk-based supervision and how to document 'maintaining competence'.

The cost is £195.00 per person (£175.00 for Compliance News Premier Service members).

Please send us a quick email with 'Supervisor Course' in the subject box to register your interest.

New Financial Services Compensation Scheme limits

Firms needed to update their Disclosure Documents to show the new limits from 1/1/10. Please use the following link to update your own. Care should be taken when using the FSA's 'build your own' section of the website, as they have not yet changed the system and the suggested versions still contain the old limits (as at 5/3/10).

http://www.fsa.gov.uk/smallfirms/resources/one_minute_guides/71_compensation.shtml

Pension Switching – Maintaining high standards is still very important

The area of Pensions switching remains very important and we strongly recommend that firms continue to apply the standards as laid out by the FSA. The two links below give detailed information about two recent fines which involved Pension Switching. We suggest that all Senior staff and those involved with Pension switching read both 'Final Notices'.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2010/038.shtml>

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2010/035.shtml>

FOS changes to 'Client Classification'

The Financial Ombudsman Service (FOS) has recently introduced some new terminology and this affects who can complain to the FOS. The term relates to small businesses (known as 'Micro-Enterprises').

http://www.financial-ombudsman.org/publications/pdf/guide_complaints_handlers.pdf

Premier Service members were advised of this in December 2009 (see item 20).

19. COMPLIANCE NEWS PREMIER SERVICE – The annual costs is per firm

As mentioned, this is a service offered by Compliance News, which was prompted by several IFAs who contacted us following the first newsletter, requesting most of the forms. We believe this service will save a typical IFA firm at least 50 to 80 hours per year.

MOST DOCUMENTS ARE SENT ELECTRONICALLY ON 'WORD'

Benefit: You have access to **all the forms** we have, at no extra charge. We will send a wide range of IFA forms / guidance on a regular basis to you in 'word' document format. In addition, wherever possible we will try and assist with individual requests.

To register: Please complete the back page with your details, enclosing a cheque made payable to Compliance News Limited.

The following is a list of just some of the documents, which will be issued.

TCF forms – Too many to list
Generic Knowledge test for advisers
Reference Request forms
Conflicts of Interest Policy
Data Security documents
Copies of relevant FSA guidance
Anti-Money Laundering Annual test
Updated Terms of Business letters (RCA)
Compliance / Risk Mitigation plan,
Compliance Audit forms,
Updated Observation forms
Adviser Role / Job Description templates
Risk Assessment / calculator of adviser,
Fit & Proper adviser annual declarations,
Client agreements / Fee agreements,

Mortgage Regulation checklists,
Customer Satisfaction Surveys,
Maintaining Competence (T & C) form,
Suitability Letter templates,
File completeness checking forms,
Blank reference request forms, diary template,
Disaster Recovery / Continuity plan,
Provider Research summary forms,
Recruitment checklists
TCF Visit – IFA feedback from FSA
New IDD (SCDD) documents
Mortgage advice/file checking forms
GABRIEL help
Personal account dealing declaration
Compliance Board Report templates,

“Whilst the above list may appear to be comprehensive the real benefit to most subscribers is being able to email a request and receive a template. We are generally able to help with 90% of all requests”

Compliance News Premier Service – Any questions?

If you cannot decide whether this service will be of benefit, or if you have any questions as to how many documents you will get / have access to, we will be glad to call you to answer any queries. Please send a quick email to the address below with 'Premier News Enquiry' in the title box and we will call you.

compliance@ifahelpline.co.uk

0113-2589878

20. COMPLIANCE NEWS PREMIER SERVICE – HOW TO SUBSCRIBE

SHOULD YOU WISH TO SUBSCRIBE TO THE COMPLIANCE NEWS PREMIER SERVICE OR REGISTER YOUR INTEREST FOR ANY OTHER SERVICE, PLEASE COMPLETE THIS SHEET AND POST TO:

**Compliance News Limited, 19 Henley Close, Rawdon, Leeds, LS19 6QB
compliance@ifahelpline.co.uk**

Compliance News Premier Service (cost for 12 month membership): This service provides copies of all the popular documents (80+) we offer, mainly in 'word' format.
SUBSCRIBERS TO THE PREMIER SERVICE WILL AUTOMATICALLY BE ENTITLED TO ALL THE DOCUMENTS DETAILED AT NO EXTRA COST (PLUS OTHERS WE DESIGN DURING YOUR SUBSCRIPTION).

Compliance News Premier Service – Small IFA firms with 1 to 10 advisers. Firms who do not have more than 10 IFAs or 3 Appointed Rep's, do not provide Compliance/Commercial services to other IFAs and agree not to pass on the material to external firms.	Cost £175 Please tick
Compliance News Premier Service – IFAs with 11 to 25 advisers and up to 9 AR's. Firms who do not have more than 25 IFAs or 9 Appointed Representatives, do not provide Compliance / Commercial services to other IFAs and agree not to pass on the material to external firms.	Cost £275 Please tick
Compliance News Premier Service – Large IFAs, Networks and other Compliance consultancies. Please contact us, as costs vary depending on size and activity.	Please contact us

Please note that the prices quoted above are for IFA firms, which are directly authorised with the FSA. Compliance News Limited reserves the right to increase the prices for other organisations, such as networks and those who also provide compliance support, that may require copies of certain documents.

Please make cheques payable to Compliance News Limited and post to the address at the top of this form. An invoice marked as 'paid' will be issued with all orders.

Name/Contact: Firm: Address: Tel: Email:	Are you an authorised firm? Yes / No
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Should you wish to receive further information on a particular topic, please complete the form below.

Compliance News – Additional Services			
	Tick (☞)		Tick (☞)
Remote file-checking		T & C Supervisor / Refresher Course	
TCF planning / Telephone support		JO Revision Courses	
Variation of Permission / FSA New Authorisation assistance		Annual Compliance Audit / Mock FSA visit	
Any other support required (please detail)			

Name:
E-mail:

Firm:
FSA Number: