

Compliance News – FOR IFAs

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

SEPTEMBER 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 designed documents include:

- Summary of FSA Small Firms Financial Crime Review
- Summary of FSA Review of Investment Advice & Platforms
- Complaints handling – annual test for staff
- Data Security – summary on a page
- Data Security staff declaration

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. UNREGULATED COLLECTIVE INVESTMENT SCHEMES (UCIS)

UCIS are described as unregulated because they are not subject to the same restrictions as a regulated CIS. As a result of their supervision and TCF work in 2009 the FSA identified concerns around the sale and promotion of UCIS. Their concerns included

- firms' lack of awareness of regulatory requirements for UCIS;
- firms' lack of understanding of the UCIS market and their risks; and
- UCIS being promoted and recommended to customers who were not eligible for this type of investment

In July they published their findings of their review into UCIS business written by small firms during 2008 and 2009.

<http://fsahandbook.info/FSA/html/handbook/COBS/4/12>

Of the IFA firms sampled 78% failed on promotion/distribution/suitability issues on UCIS.

You can find the full detail on these restrictions and the eight categories of individuals where exemptions exist at the link below.

During the next four weeks, we will be publishing a document for our Premier Service subscribers, to assist them in this area.

In addition, more can be read in the later section regarding the recent Moneywise IFA Limited FSA fine.

2. SUPERVISOR COURSE (Manchester) FOR NEW SUPERVISORS

We are running this course in the centre of Manchester on 12th October 2010. This is an all-day course aimed at people who are relatively new to Supervision. The course will cover 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'. In addition, we will also cover key aspects of file-checking and work through examples.

Firms must be able to demonstrate that advisers are adequately supervised and monitored. This includes observed calls / mini role-plays / knowledge testing / training plans. The fact that an IFA has 99.9% persistency, is AFPC qualified and has never had a

complaint does not show the FSA that the firm know he or she is Competent.

In addition, how are the Supervisors competent to know what to look for / when were they last trained?

The cost of the course is £195 per person (£180 for Premier Service subscribers). To book a place please email compliance@ifahelpline.co.uk

During October / November 2010 we are also running 5 other 'Refresher' training courses for existing Supervisors. Most places have been taken by Premier Service subscribers, but to register your interest and learn about the next dates, please send us an email with 'Supervisor Refresher interest' in the subject box.

3. RDR UPDATE / FINANCIAL RESOURCES CHANGES

During August 2010, this topic was again in the spotlight. It was previously in the RDR documents and now the ABI & HMRC are taking an interest. The link below helps, in summary the ABI & HMRC have been working jointly to clarify the position for:

- An initial and ongoing service where the cost is paid through product commission
- An initial upfront service where the cost is paid through Adviser Charging
- An ongoing service where the cost is paid through Adviser Charging

HMRC / ABI appear to have finalised their view (for now?) and are circulating the guidance notes. Follow the link below to the ABI Guidance for determining the VAT liability of adviser remuneration.

<http://www.abi.org.uk/Information/Business/InsuranceAdviceforBusinesses.aspx>

<http://www.mrscohen.com/new-model-adviser/vat-on-fees-will-new-guidance-help/a422457>

4. RDR EXAMS UPDATE / CII / IFS – Also RO1 revision courses

All investment advisers (CF30) assessed as competent on 30 June 2009 will need to be qualified to a new, higher level (QCF Level 4) by the end of 2012. For those with existing recognised qualifications (for example the CII – with 140+ points) advisers can ‘gap-fill’ any shortfalls by way of structured CPD.

Whilst the CII gap-fill website is currently ‘down’, we strongly recommend that all of your advisers become aware of what they are required to do in respect of exams. In

addition, it is becoming extremely clear that CPD records will need to be fully detailed in the future.

We are looking at running RO6 courses on the 13th & 14th October 2010 (one North, one South – TBC) and possibly RO1 sessions.

To register interest, please email compliance@ifahelpline.co.uk with RO6 / RO1 in the subject box.

The following links will assist most IFAs in making a decision about which route to take:

<http://www.cii.co.uk/financialservices/qualifications/Qualification.aspx?award=DipRegFP>

<http://www.thepfs.org/pages/memberservices/RDR/qualifications-gap-fill.aspx>

<http://www.ifslearning.ac.uk/Qualifications/RegulatoryLicenceToPractiseQualifications/QualificationsForFinancialAdvisers.aspx>

<http://www.aifa.net/qualifications/>

5. RO6 REVISION COURSES – 12th & 13th October 2010

In association with the Qualifications Academy – we are again running RO6 courses (follow-on from JO8). The exam date is the 19th October 2010.

Tuesday 12th October 2010 – South
Wednesday 13th October 2010 - North

The main focus is to concentrate on the case studies and areas where we believe questions may be asked.

The cost of the day will be £195 per person (£180 for Premier Service subscribers)

To register your interest, please email us immediately compliance@ifahelpline.co.uk (as we go to print a number of places have already been booked). Please state which date you would be interested in.

6. TCF – FSA ISSUES / LEARNING POINTS

We are now at the end of an extremely busy TCF period, as the FSA have assessed a large number of firms in the Yorkshire area and have also started to undertake the ‘follow-up / validation’ visits. From the FSA sessions we can report that the five most common issues identified by the FSA were as follows:

- Reviews of a firm must be effective
- Customer Feedback
- Improve / enhance the Management’s involvement with TCF
- Collection, analysis and use of Management Information
- Training & Assessing Advisor Competence / Competent Supervision

A full suite of TCF forms is available to our Premier Service subscribers. Please see the last page for details on how to subscribe.

7. IN HOUSE KNOWLEDGE TESTING

Amongst our documents available to Premier Service subscribers, are a number of knowledge tests. These are written exams for firms to use in order to formerly assess their staff AND identify specific training needs of their individual staff members. The papers available are:

- General IFA papers
- Higher level IFA paper
- Mortgage paper
- Structured Product paper
- Admin / Non advisory paper
- Complaints handling annual staff test

Please see the last page for details on how to subscribe.

8. VAT AND FINANCIAL ADVICE

As at today, we are very close to 600 working days to the RDR deadline on 31st December 2012. From our knowledge of the progress made at the FSA and the Consultation Programme, we believe that the RDR will happen. This does not mean that we whole-heartedly agree with all of the change; however, fully accept that it will go ahead. With this in mind, those firms who are still thinking about certain key areas really need to plan ahead. In our opinion, the three main changes are:

- Adviser Remuneration changes / Indemnity commission ceasing for contracts with an investment element.
- Higher-level minimum qualification requirements for those advising retail clients on Pensions & Investments (Investment Advisers – CF30).
- Increased (for most firms) Financial Resources Requirements / Capital Adequacy (moving to EBR – Expenditure Based Requirements)

We have been in regular contact with the FSA on various matters. Following a recent conversation with a well-informed FSA officer, we believe that the EBR proposals will go ahead. In our opinion, the FSA accept that the changes will cause various issues, but change is required.

You can read more on this topic via the following link:

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

9. NEW BUSINESS REGISTERS / NEW BUSINESS DAY BOOK ON EXCEL

For small firms who use Excel spreadsheets, we have two different examples which are available to subscribing firms. We have highlighted this, as the FSA do normally require a complete record of new business

before a visit and a number of firms have struggled to provide the FSA with a comprehensive list (system & controls requirement).

10. ONLINE NOTIFICATIONS AND APPLICATIONS ON THE FSA WEBSITE (ONA)

From October 4 usage of ONA will be **mandatory** and will replace both Firms Online and the old paper-based applications

system. We recommend that firms register now.

<http://www.fsa.gov.uk/smallfirms/updates/ona.shtml>

<http://www.fsa.gov.uk/pages/Doing/Regulated/ona/index.shtml>

11. COMPLAINTS HANDLING

We have updated our Complaints Handling Procedure document to hand out to clients. This document is available now to Premier Service subscribers. We also have a

'Complaints Handling Annual Test for Staff' document. Please see the last page for details on how to subscribe.

12. MONEY MADE CLEAR PRINTED GUIDES

IFA firms continue to use these to help clients and as part of their TCF work. The Pensions booklet was recently updated. Firms can order up to 2000 free of charge, please see

the link below. In our opinion the 'Your pension – It's time to choose, Retirement options and Income Withdrawal' are the most useful.

http://www.moneymadeclear.org.uk/tools/publications/firms_online_order_form.html

13. DEMONSTRATING AFFORDABILITY

A number of firms who have had face-to-face FSA visits have commented on the FSA's 'interest' on affordability, especially for mortgage related advice. Can your advisers clearly demonstrate that regular premiums are affordable? As a business (file-checking / monitoring) have you considered comparing the fact-find to the completed mortgage application form and bank statements? We

believe that in general, the FSA do not accept a clients words that they 'can afford £XXXX per month'; it is down to the adviser to demonstrate affordability.

You will find more information by following the link below.

http://www.fsa.gov.uk/smallfirms/your_firm_type/mortgage/sales/affordability/index.shtml

14. THE END OF ANNUITISATION AT AGE 75

Please can we remind firms to update their letters / forms / emails etc. which cover this area.

We have provided our Premier Service subscribers with wording for the five key points, which can be used in the suitability reports / explaining the technical changes.

The Government is to consult on the detail of the new rules and report back very soon. In the meantime interim measures are to be introduced for those reaching age 75 on or after 22 June 2010 before the new rules are finalised in April 2011.

15. REMOTE FILE CHECKING SERVICE

Through our sister company Just CRS Limited, we are able to provide a remote file checking service to IFA firms on a 'pay as you go' basis.

The costs are £65 per remote client file review with summary sheet (excluding

multiple transaction files or higher risk cases such as drawdown, structured products or PP switching) or £95 per drawdown / PP switching (up to 3 into 1) remote file check.

Please contact Katherine Horgan katherine@justcrs.co.uk or 07815 767204.

16. DATA SECURITY STAFF DECLARATIONS - UPDATED

We have recently updated the staff declarations we issue to subscribing firms, to take the details from the FSA's factsheets into account. It is important that Senior Management / Business owners regularly discuss / remind staff of their obligations and why Data Security is so important.

The two main new documents include a staff declaration and a 'SOAP' – Summary On A Page about Data Security. New subscribers will automatically receive copies.

http://www.fsa.gov.uk/smallfirms/resources/factsheets/pdfs/data_security.pdf

http://www.fsa.gov.uk/smallfirms/good_practice/protecting_your_business/financial_crimes.shtml

17. FSA fine 'Moneywise IFA Limited' for advice failings in relation to platforms and UCIS

Whilst readers might have seen this reported in the press last week, it is of particular interest as we believe the firm is the first to be fined for Platform failings. Whilst many providers are able to assist firms with their research and due diligence, it is the responsibility of the Senior Managements of the authorised firm, to be able to demonstrate the rationale behind choosing a particular provider and that the firm are regularly reviewing this. In addition, all staff must be properly trained and competent to fulfil their individual role. The fine also included

reference to failing about the advice / arranging of Unregulated Collective Investment Schemes. As shown in point 1 on (page 2), this area is now becoming very important. Compliance News will soon be issuing the 'Premier Service' subscribers with an update on this area. Please may we recommend that the final notice (link below) is shown to all CF1 / CF4 & CF10 staff and that the relevant parts are discussed (and recorded) at your next board / partners meeting.

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2010/138.shtml>

18. TAKEN ON A NEW RI RECENTLY?

Have you recently recruited an adviser to your firm (and subsequently signed them off as 'competent')?

Irrespective of their past experience, knowledge and skills etc. the FSA still expect you have a formal process to sign them 'off' as competent. We refer to this as 'attaining competence', but the specific Rules reference is TC 2.1.1.

Compliance News has devised a form to assist firms cover the key elements of a sign-off process. Should you receive a Regulatory visit and the T & C records be examined (from our experience), it is likely the FSA would ask to see the records to justify / record the 'sign-off' process.

Premier Service subscribers will automatically receive a copy of this form.

19. INTEREST-ONLY MORTGAGES

This area continues to attract Regulatory interest. In our opinion, firms must have a 'belt & braces' process for arranging all interest-only mortgages. We have designed a check sheet to help firms cover the main areas and assist advisers write file notes to

cover the salient points. The intention is to make sure the advisers fully consider the reasons / rationale / evidence on file.

New subscribers will automatically receive a copy.

20. COMPLIANCE NEWS PREMIER SERVICE – Extremely good value!

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 can 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

Tel: 0113 2583111 or 0113 2589878

21. 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
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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
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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
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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:

Are you an authorised firm? Yes / No

Tel:

Email:

Should you wish to receive further information on a particular topic, please complete the form below.

Compliance News – Additional Services			
	Tick (☑)		Tick (☑)
TCF Telephone overview		Remote file-checking service	
TCF planning & documentation		GABRIEL Assistance	
Variation of Permission / FSA New Authorisation assistance		Annual Compliance Audit / Mock FSA visit	
Can Compliance News provide you with a bespoke quotation?		T & C Supervisor / Refresher Course	

Name:

E-mail:

Firm:

FSA Number: