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Briefing note April 2014

FCA Business Plan

The Financial Conduct Authority (FCA) has announced as part of its Business Plan for 2014/2015 a number of new thematic reviews (TR's) into the insurance industry and an indication of the timing of those reviews throughout the period:.

General insurance and protection:

Commercial claims	Q3 2014 – Q1 2015
Coverholder and distribution review on wholesale markets	Q2 2014 – Q4 2014
Premium finance	Q3 2014
Client money	Q3 2014 - Q1 2015
Motor Legal expenses insurance*	Q3 2014
Mobile Phone insurance*	Q4 2014 – Q1 2015

Life and pensions:

Due diligence on retail investment advice	Q3 2014 – Q1 2015
Sales practices on retirement	Q1 2014 – Q2 2015
Fair treatment of long-standing customers	Q2 2014 – Q4 2015
Governance of with-profits funds *	Q4 2014 – Q3 2015

Marked with an * means that the FCA will ensure firms have embedded recommendations from earlier TR.

Key points to note:

General Insurance and protection

As promised, the FCA is focussing more on the wholesale market, although with a greater focus where there is an impact to personal lines and small commercial customers. This is evidenced by the TR's which have been announced in relation to commercial claims and the distribution chains in wholesale markets.

On the latter, we expect the FCA to review the contractual terms with coverholders and the systems and controls around monitoring and audit. They will clearly be concerned about conflicts of interest in duties to insurer and policyholder, but also the division of responsibility between insurer and coverholder in the product governance lifecycle. Insurers may well consider commencing an internal review of their coverholder arrangements immediately in order to prepare for the TR.

On premium finance, the new TR will review sales practices and disclosures and is aligned with the FCA new responsibility for the regulation of consumer credit.

Key points to note:

Life and Pensions

Needless to say there has already been a lot of publicity around the TR into business practices relating to legacy/historic business. The focus is on firms with large back books and, in line with their focus on behavioural economics, the risks of consumer inertia, inability to switch (e.g. because of exit charges) and transparency in costs and product terms. The FCA has given further guidance in stating that it is not seeking to rewrite existing products to remove exit charges nor to look at historic sales practices for the relevant customers. It has also said that it will not apply current standards retrospectively. To say the least, the scope of this TR is now unclear.

The other reviews are, in effect, a continuation of previous work into the annuities and with-profit markets. In the case of the retirement income market, they have indicated a greater focus on the sales process and acknowledge that they need to take account of the 2014 Government Budget announcements. In light of the Budget, it remains to be seen how these reviews and the current Market study into annuities will operate. It will be a challenge to analyse a market which is in such a state of flux, but that may mean that the FCA is able to demonstrate its pro-active approach to regulation by shaping the type and quality of advice required at point of sale in this arena.

Conclusions

The FCA's approach to TR's is now relatively well settled and lessons can be learned from previous studies (see the Clifford Chance article - The FCA – 6 months on and the inexorable rise of the Thematic Review). As a result of the early announcements in the Business Plan, firms have an opportunity to prepare for the TR and anticipate areas of focus and any improvements which they may be able to make to their practices. We would encourage early engagement with the issues, particularly for those in the wholesale market who have not been subject to a TR previously and may be more unfamiliar with the process and the potential outcomes. As a connected point, firms may well have noticed that the Business Plan includes an estimate of financial penalties of £43.6m for 2014/15.

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