



November 2008

InSure

This month's roundup of developments affecting the insurance industry sees ECOFIN approving the Solvency II framework directive, a further investigation by the CC into the PPI market, plans to deregulate Lloyd's of London, ...

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General News

CEIOPS' Comments On Turmoil And Current Equity Developments

On 10 October 2008 the Committee of European Insurance and Occupational Pensions Supervisors (**CEIOPS**) published a press release commenting on the turmoil and current equity developments and the impact on European insurance companies and pension funds.

CEIOPS points out that the European system is a robust one with the current market turbulences only having a limited impact on European insurers and pension funds. Supervisors will continue to monitor the recent decline in share prices very carefully in their home markets and enhance cross-border cooperation and information sharing.

Following the recent decline in share prices, CEIOPS urges insurers and pension funds not to overreact and reminds supervisors and the industry of the scope of IAS 39. This requires market prices for equities, but also provides guidance on the use of management internal assumptions to measure fair value when relevant market evidence does not exist.

Please click [here](#) for a copy of the press release. (Source: *CEIOPS, press release, 10 October 2008*) - [Back](#)

Bradford & Bingley Bailout Threatens Brokers

The Institute of Insurance Brokers warned in a press release that the way the Bradford & Bingley (**B&B**) bailout was handled may have distanced the taxpayer from the costs involved, but it could threaten the livelihood of some insurance brokers.

By invoking the Financial Services Compensation Scheme (**FSCS**), which has provided funding of approximately £14 billion pounds to enable Spanish-owned Abbey to take over B&B's branches and deposits, the government has been able to claim that the taxpayer is not involved in the bailout. However,



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due to the way the FSCS is funded, only the first £1.8 billion of the scheme's £4.03 billion capacity falls to banks and other deposit takers for payment. Losses beyond this are paid for by the wider financial services community, including insurers and financial services intermediaries.

Please click [here](#) for a copy of the press release. (Source: *Institute of Insurance Brokers, press release, 06 October 2008*) - [Back↑](#)

Reinsurance: Commission Takes Action Against Belgium, the Czech Republic, Greece, Poland and Portugal

In a press release published on 16 October 2008 the European Commission announced that it has decided to refer Belgium, the Czech Republic, Greece, Poland and Portugal to the European Court of Justice over non-implementation of the Reinsurance Directive. The transposition deadline for the Directive was 10 December 2007.

Please click [here](#) for a copy of the press release. (Source: *European Commission, rapid press release, IP/08/1520, Brussels, 16 October 2008*) - [Back↑](#)

Deregulation Of Lloyd's Of London

According to an article by the Guardian, the House of Commons regulatory reform committee is recommending fast-track deregulation of the Lloyd's of London insurance market, in spite of the current focus on regulation of the banking industry. The Treasury has accepted the committee's proposals for deregulating the market, abolishing obsolete rules aimed at preventing conflicts of interest, and relaxing the rules governing appointments, elections and the disciplinary committee.

(Source: *Guardian, 21 October 2008, p28*) - [Back↑](#)

No Capital Increase For Insurers

According to an article by the Financial Times, the FSA postponed changes that could require life assurers to downgrade assumptions of investment returns and hold more capital, citing concerns over current volatility in the stock and bond markets. The FSA will continue to discuss the issue with stakeholders but has agreed a six month moratorium on possible changes with the Association of British Insurers.

(Source: *Financial Times, 23 October 2008, p20*) - [Back↑](#)

Memorandum Of Understanding Between FSA And NYSID

The FSA published on its website a Memorandum of Understanding (**MoU**) it entered into with the New York State Insurance Department (**NYSID**) on 10 October 2008.

The MoU provides a formal basis for cooperation and coordination, including for the exchange, handling, protection and return of information in their possession and, where appropriate, investigative assistance with respect to companies and persons engaged in the insurance business.

Please click [here](#) for a copy of the MoU. (Source: *FSA, NYSID, MoU, 10 October 2008*) - [Back↑](#)

New Legislation & Consultations

Competition Commission Consultation Paper On Further Analysis On Remedies In PPI Market Investigation

On 14 October 2008 the Competition Commission published a consultation paper setting out further analysis which has been conducted in order to decide what remedies, if any, should be imposed to counter the adverse effect on competition in the Payment Protection Insurance market.

Please click [here](#) for a copy of the consultation paper. (Source: *Competition Commission, 14 October 2008*) - [Back↑](#)

FSA Consults On Annual Fees And Levies

On 30 October 2008 the FSA published its annual consultation paper (**CP**) on "[Regulatory fees and levies: policy proposals for 2009/10](#)". In addition, the FSA published on its [website](#) frequently asked questions relating to FSA fees 2008/09.

The consultation period for the proposals closes on 16 January 2009. The only exception to this are the proposals for discussion in chapter 10 where the closing date for responses is 31 December 2008 –



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further consultation will take place on these proposals in February 2009.

The FSA expects to publish the responses and its feedback to those responses in a separate policy statement in March 2009. Most of the rules finalised after this consultation will come into force from 1 April 2009 and 1 June 2009.

In February 2009 the FSA will publish its second annual fees CP which will cover the following topics:

- the FSA Annual Funding Requirement and its allocation between fee-blocks;
- the FSA fee rates for the forthcoming financial year;
- the Financial Services Compensation Scheme management expenses levy limit; and
- the Financial Ombudsman Service general levy for the forthcoming financial year.

(Source: FSA, CP 08/18, [Newsletter](#), 30 October 2008) - [Back](#)

FSA And OFT Responses On Inherited Estates

On 28 October 2008 the Treasury Committee of the House of Commons published the FSA's and OFT's responses to the Committee's report on inherited estates. The Publication can be found [here](#). - [Back](#)

Regulatory Developments

ECOFIN Approves Solvency II Framework Directive

On 7 October 2008 Economic and Monetary Affairs Committee of the European Parliament (**ECOFIN**) approved the Solvency II Framework Directive.

In a [press release](#) published the same day, CEA, welcomed the text approved by the ECOFIN and supports the decisions reached by MEPs on group support and the minimum capital requirement.

The CEA also broadly supported the vote in favour of the so-called "combined approach" to the calculation of the minimum capital requirement (MCR) for insurers, under which the result of the calculation must fall within a corridor of 25-45% of the solvency capital requirement (SCR). In the absence of a direct link

between the MCR and the value of the SCR, this methodology will at least create a minimum level of sensitivity in the calculation.

According to CEA, over 800 amendments had been proposed to the draft text of the new framework for insurance supervision and regulation put forward by Peter Skinner, MEP, raising fears that the vote might be delayed to allow further time for their consideration.

Following the committee vote, the European Parliament plenary is expected to vote on the proposed Directive at the end of November. (Source: CEA, *press release*, 07 October 2008) - [Back](#)

CEIOPS On Lessons To Be Learned From The Current Financial Crisis

On 28 October 2008 CEIOPS announced that it will start reflecting on lessons to be learnt for the proposed Solvency II regime, with a view to strengthening the focus on financial stability. Please read more in the [press release](#). - [Back](#)

Update On Its Review Of The Sale Of PPI

The FSA [announced](#) that it will escalate its regulatory intervention on the sale of Payment Protection Insurance (**PPI**). This is due to the poor findings from its recent thematic review on the sale of PPI. The review included a mystery shopping program that captured customer experiences of face-to-face branch sales of single premium PPI when sold alongside an unsecured personal loan. The results showed:

- very few customers were told that the cost of the payment protection would be added to the loan as a single premium and that interest would be charged on this amount;
- only half of customers said that they were told about the key limitations and exclusions of the policy - this is fundamental to establishing a customer's need and eligibility; and
- many customers were not told of both the monthly cost and total cost of their PPI - at the worst performing firms very few customers were given adequate information on the cost of their policy.

The FSA will consider the action it will take to deal with ongoing non-compliant sales practices and consider actions to identify and remedy non-compliant past



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sales, using a range of regulatory powers at its disposal.

The FSA will publish a further update on the third phase of its thematic work in early 2009. The FSA is considering the Financial Ombudsman Service's (FOS) concerns, raised in its wider implications letter, about PPI complaints and will be working with the FOS on an appropriate response.

Please click [here](#) for a copy of the FSA's update. (Source: *FSA/PN/112/2008, 30 September 2008*) - [Back↑](#)

TCF And With-Profits: The FSA's Perspective

On 29 October 2008 the FSA published on its website a speech given by Sarah Wilson, of the FSA, at the Infoline conference on ensuring and evidencing TCF in with-profits.

In her speech Ms Wilson covered three main topics:

- the key TCF issues for the with-profits sector;
- the responsibilities of senior management for the fair treatment of policyholders and the regulatory safeguards in place; and
- the FSA plans to review how well senior management are implementing FSA rules in practice.

Please click [here](#) for a copy of the speech. (Source: *FSA, speech, TCF and with-profits: the FSA's Perspective, 29 October 2008*) - [Back↑](#)

FSA Updates Approved Persons Regime For SIFs

Following the financial turbulence of the last year, the FSA updated the scope and application of its approved persons regime for Significant Influence controlled functions (SIFs).

The FSA amended form A, which will require all firms to provide supplementary information based on the competence and capability of the candidate. In particular, the FSA will ask firms to provide information on:

- why the appointment complements the firm's business strategy, activity and the
- the markets in which it operates; and

- how the appointment was agreed, including details of any discussions at governing body level where this is appropriate.

Firms need to start using the [updated form](#), which is available on the FSA website. (Source: *FSA website, Approved persons and appointed representatives, 2 October 2008*) - [Back↑](#)

ABI Initiative To Improve Annuity Transfer Times

On 23 October 2008, the ABI announced details of its work with the UK's leading annuity providers to speed up the time it takes for Open Market Option payments to be made to pensioners.

15 providers, representing over 90% of the annuities industry, are involved in the initiative, which involves the creation of an electronic information exchange developed by Origo, the financial services e-commerce standards body.

The specific aim of the initiative is to reduce the time that it takes providers to transfer the information and funds between them which are required to set up an annuity. The initial target is within 30 calendar days from the point the provider receives the application to the point at which the annuity is set-up, but the intention is that this target will be reduced over time.

Please click [here](#) for a copy of the press release. (Source: *ABI, press release 65/08, 23 October 2008*) - [Back↑](#)

IAIS Publishes New Standards And Guidance Papers

On 17 October the International Association of Insurance Supervisors (IAIS) announced the adoption of six significant supervisory papers on solvency assessment. The papers identify certain key features which supervisors should consider in their particular solvency regimes in establishing and maintaining well-regulated insurance industries. The papers aim at enhancing and improving transparency, comparability and convergence of the assessment of insurer solvency internationally. The papers cover:

- Standard and guidance on the structure of regulatory capital requirements
- Standard and guidance on enterprise risk management for capital adequacy and solvency purposes
- Standard and guidance on the use of internal models for regulatory capital purposes



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The papers can be accessed via IAIS' website using the following link:
<http://www.iaisweb.org/index.cfm?pageID=38>.

Commenting on the adoption of the papers, Stephen Haddrill, Director General of the ABI said:

"These are difficult market conditions, but the insurance industry stands ready to work with the supervisory authorities around these principles as we believe that the maintenance and strengthening of them is the best basis for protecting policyholders on an ongoing basis."

(Source: IAIS press release, 17 October 2008) - [Back↑](#)

General Legal Issues

Challenges For Corporate Governance In The EU

The European Commission published a speech given by Charlie McCreevy, European Commissioner for Internal Market and Services, gave at the 7th European Law and Corporate Governance Conference in Paris, on 16 October 2008. In his speech, entitled "Challenges for corporate governance in the EU" Mr. McCreevy addressed the following issues:

- Regulation or self-regulation
- New balance inside the board of directors
- Improved dialogue between issuers and shareholders
- More transparency during takeovers

Please click [here](#) for a copy of the speech. (Source: European Commission, rapid press release, SPEECH/08/537) - [Back↑](#)

ICO Calls On Corporate Bosses To Take Responsibility For Data Protection

Speaking this week at the conference hosted by RSA, the security company, the Information Commissioner, Richard Thomas, said that the soaring number of reported data breaches is serious and worrying. In the last year, 256 breaches have been reported to the Information Commissioner's Office (ICO). Of these breaches, 39% were made by the NHS and other health bodies, 31% by the private sector, 21% by

central government and local authorities and 18% by the rest of the public sector. Mr. Thomas argued that responsibility rests at the top, and called for chief executives to take responsibility for the data their organisations hold.

The full speech is available [here](#). - [Back↑](#)

FSA Fines Firm And MLRO For Money Laundering Controls Failings

On 29 October 2008 the FSA published on its websites two Final Notices it has issued to Sindicatum Holdings Limited (SHL) and its money laundering reporting officer (MLRO), Michael Wheelhouse, for not having adequate anti-money laundering systems and controls in place for verifying and recording clients' identities. SHL was fined £49,000 and Mr. Wheelhouse was fined £17,500.

This is the first time the FSA has fined a money laundering reporting officer. The FSA found a number of failings including:

- the firm failed to implement adequate procedures for verifying the identity of its clients;
- it failed to verify adequately the identity of a significant number of its clients;
- it failed to keep adequate records with regard to the verification of the identity of its clients; and
- Mr Wheelhouse failed to take reasonable steps to implement adequate procedures for controlling money laundering risk.

The Final Notices can be found on the FSA website. (Source: FSA, [website](#), FSA/PN/125/2008, 29 October 2008) - [Back↑](#)

CESR, CEBS and CEIOPS Publish Joint Statement On Accounting

On 21 October 2008 the Committee of European Securities Regulators (CESR), the Committee of European Banking Supervisors (CEBS), and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) published a [joint statement](#), with their input regarding the latest developments in accounting regarding fair value. - [Back↑](#)



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