

Claims Management Working Group Minutes
Friday 11th January 2019, 14.00pm – 15.30pm

Meeting attendants: Jourdain Tambo from Consumer Credit Compliance, Ian Cass from Chameleon Compliance, Jeremy Smith from b-compliant, Simon Chapman from Complyport, Julie Ampadu from Chameleon Compliance, Tracey Norton from Create Solutions (instead of Mike Cranny)

1. PS18/23: Claims management: how we will regulate claims management companies (technical issues and queries)

The FCA are adopting the controller definition that applies to full permission consumer credit firms, namely 20%. It was said that this is a pragmatic approach by the FCA to minimise the amount of work that they would need to undertake in processing the applications if they applied a lower threshold.

Discussed the requirement in the final rules for CMCs to set out that consumers do not have to use a CMC and can make a claim themselves and that this requirement applies across all media used (radio included). It was said that this is in keeping with the clear, fair and not misleading principle which is media neutral. The FCA's most recent Dear CEO letter on financial promotions was brought up to demonstrate the importance of the clear, fair and not misleading principle.

It was stated that it would be useful for the FCA to make the full application available as soon as possible to enable CMCs to take a look at the information that is to be provided. It was expressed that some CMCs who may have the intention to meet the FCA's standards are working on the backfoot because they do not have an idea of what FCA compliance documents look like in practice and of the information that they would need to provide as part of their application. It was stated that there will be quite a shock in culture for CMCs who are used to the current regulator being more helpful and ready to provide guidance.

Discussed the no win, no fee requirements in the final rules that apply to lead generating CMCs. It was stated that this is in keeping with the overarching obligation to be transparent with consumers and that this is not different to other regulated sectors. It was stated that lead generators present a bigger problem from a consumer risk perspective than claims processing CMCs. It was stated that lead generators should be regulated. The question was asked what does everyone mean when they use the term 'lead generator'? We sought to make a distinction between data suppliers who provide generic, non-claims specific data (e.g. name and contact details only) and lead generators who provide qualified claims leads.

Discussed the requirement in the final rules for CMCs to provide consumers with information on outstanding liabilities and pension accessibility and their fees liability in a durable medium and whether this can be set out in the terms of business.

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Discussed the final rules requiring CMCs to (1) proactively draw customers attention to information in the one-page summary about the fact can they can pursue a claim themselves and do not need to use the services of a CMC, (2) ask question about outstanding liabilities and formal debt enforcement action (e.g. CCJs etc) and to made a record of customers answers and (3) pension accessibility. It was stated that this is in keeping with the clear, fair and not misleading principle and that CMCs should not see this as sales prohibitive but as a platform to ensure that consumers engage on an informed basis.

Discussed the culture prevalent in some CMCs and how us as consultants can assist CMCs without compromising our integrity. A distinction was made between 'dodgy' CMCs who have no intention of complying with the FCA's standards and 'unaware' CMCs who have every intention to comply but don't know how in practice. It was said that it is the latter category of CMCs that us as consultants should seek to assist.

2. Temporary permission

It was stated that some firms have been experiencing technical issues on the Connect portal when completing temporary permission applications. The issues involved draft applications vanishing when logged out and issues in entering a postcode on the complaints contact details section that is different to the postcode entered on the firm details section.

It was stated that no CMC that has submitted its temporary permission application, as far as the application the attendants on the call completed, have received an invoice from the FCA.

3. Stakeholder engagement

Discussed contacting CMC trade associations, namely the Alliance of Claims Companies and the Professional Financial Claims Association. Everyone was in agreement to potentially contacting these organisations and getting feedback on the compliance difficulties that their members are facing and the points we can feedback to the FCA.

Discussed that Jourdain has been liaising with Mike Baker who is part of the Claims Management Transition team at the FCA. Mike stated that in principle he can join our call. Jourdain will liaise with Mike to get a convenient date and we can arrange the next teleconference around Mike's availability.

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4. AOB

Discussed whether many CMCs operating under an agency agreement under the current regime have realised that they would need to be authorised by the CMR to be eligible for temporary permission and continue BAU post-1st April. There was a discussion that given the timescale left it is unlikely that the CMR would be able to process authorisation applications before 1st April which would mean that the quickest option for agents would be to acquire an authorised CMC however this may come with the fees liability depending on the entity's regulated turnover.