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The insurance sector is currently undergoing a great deal of transition, and I recognise the importance of communicating clearly and frequently through a variety of channels. So I am pleased that in my first two months as Director of the FSA's Insurance Division, I have already had the opportunity to address many of you at our recent Solvency II conference. And later this month, I will be speaking to a number of you again at our PRA Launch conference.

At the Solvency II event, I discussed **our approach to implementation**. However, while Solvency II remains a key priority for firms, I would like to remind you that we are aware of the many other pressures facing the sector. And while the Directive is not yet in place, it is still important to operate robust strategic planning and embed appropriate risk management processes now, while still focusing on ensuring customers are treated fairly.

I'd also like to welcome you to this issue of our General Insurance Newsletter. Inside you'll find links to all the information from the Solvency II conference, as well as updates on the recent Gender Directive judgment and Solicitors' Professional Indemnity Insurance.

I encourage you to use the link above to review my recent speech. I'd be very keen to hear any feedback you have on this or the newsletter.

**Julian Adams**  
Director, Insurance Division



**Julian Adams**  
Director  
Insurance Division

“ *we are aware of the many other pressures facing the sector* ”

## Solicitors' Professional Indemnity insurance – allegations of discrimination

Allegations have been made about possible discrimination in the market for Solicitors' Professional Indemnity insurance, particularly in relation to Black and Minority Ethnic Solicitors.

We have been engaged in discussions with the Equality and Human Rights Commission, the Solicitors Regulation Authority and the Association of British Insurers (ABI) on this matter. We have also discussed concerns that have arisen with some firms and welcome all initiatives aimed at addressing some of the issues that arise in this market.

It is important for insurers, both in this market and others, to ensure they are compliant with their legal obligations when deciding to provide or refuse cover, and the terms and conditions they apply.

It is also important for firms to ensure they have appropriate controls in place to avoid the risk of unlawful discrimination arising from their risk-based underwriting practices.

To find more information on legal obligations, see the Equality and **Human Rights Commission** website.

## Solvency II – our current thinking

### Solvency II Conference

On Monday 18 April we shared our current thinking on Solvency II policy issues and implementation approach with the UK insurance industry at our Solvency II conference.

We:

- outlined our two-tier approach to the way would allocate resources to firms in the pre-application phase of Internal Model Approval Process in our efforts to give firms a decision on their model before implementation on 1 January 2013;
- discussed the main policy uncertainties, which we also set out in the accompanying conference document *Delivering Solvency II* (April 2011);
- outlined the key dates for planning purposes, including our assumptions that full implementation is on 1 January 2013, and we would be open to receive applications on those provisions of the Directive which envisage our approval from 30 March 2012; and

- underlined the importance of the UK industry to continue to be involved with developing the approach to implementation in Europe and the UK. We will do this through several different forums, including the existing Insurance Standing Group and its sub-groups which have over 100 people registered to receive information, and creating new ones as needed.

For conference speeches, presentations and the supporting document *Delivering Solvency II* (April 2011) see our [website](#).

### What's coming up later in 2011?

Later this year, we will be:

- exploring ways to engage with the industry on implementation of Solvency II, including any related issues;
- piloting the use of external reviews of data management as part of the pre-application phase of IMAP, with a view to rolling this out to firms from July onwards;
- updating the industry on the

development of quantitative techniques and tools; and

- preparing the FSA's first Consultation Paper on Solvency II.

### Capital instruments

A number of insurance groups have recently issued subordinated debt instruments in a form not only intended to qualify as lower tier 2 under GENPRU, but also to anticipate the Solvency II requirements for Tier 2. Similar capital instruments are also being issued in other Member States.

Anyone issuing these instruments should be aware that Solvency II requirements will cover issuance both by insurers and other group companies. The requirements and criteria at solo and group level will be subject to implementing technical standards. At this time neither issuers, nor the FSA, can confirm that instruments issued before the requirements are finalised will qualify as Tier 2 own funds when Solvency II is implemented.

## Gender Directive – current considerations

The Test Achats judgment, handed down on 1 March 2011, has the effect of removing the opt-out within the EU Gender Directive allowing insurers to use gender as a rating factor when pricing risk from 21 December 2012.

The Treasury is leading consideration of local law changes, if any, necessary to comply with this judgment. The full implications for the insurance sector of the judgment cannot be determined until any such changes are agreed.

We are liaising closely with the Treasury and we remain alert to possible consequential risks for the industry and its customers.

## Consumer alert – Asset Income Plan Ltd

We have published a **consumer alert** about a firm called Asset Income Plan Ltd and its product Crossroads because we are concerned that the risks involved for customers are not made clear enough.

The product's promotional material claims that the product pays homeowners an annual income of 5%, based on 50% of the value of their property for a set period of time. To receive this income, the homeowner must allow an insurance company to take a legal charge on their property up to a maximum of 50% of its

value. The product information states that the risk of having to sell their property would only occur if the insurance company became insolvent but, according to promotional literature, due to 'capital risk insurance' cover this risk is reduced.

It is not clear if this is correct and whatever steps may be taken to reduce the likelihood of the firm carrying this out, homeowners may still be at risk.

The product information also explains that Crossroads is not regulated under

our rules. This might mean that its advisers and providers do not need to be authorised by us. While there is not enough information to confirm this at the moment, if it is correct, consumers will not be covered under the Financial Services Compensation Scheme (FSCS) or be able to take any complaint to the Financial Ombudsman Service.

This alert is relevant to all homeowners seeking sources of income to fund their retirement, plus anyone over the age of 18 who owns their property outright.

## Tracing employers' liability insurers

We are helping claimants trace insurers that provide employers' liability cover. Our policy, published in our **Tracing Employers' Liability Insurers Policy Statement**, supports long-term structural change to the recording of employers' liability information by insurers.

All general insurers and Lloyd's managing agents, including run-off insurers and EEA insurers passporting into the UK, must tell us whether they have actual or potential liability for UK commercial lines employers' liability insurance. If they do, they must provide the internet address of their employers' liability register (ELR), contact details and the period over which they provided cover. Initial notification was required by 6 April 2011, and they must notify us within one month of any change. Firms with actual or potential liability

are required to make their ELRs available on their websites or through a qualifying tracing office. This includes details of policies which are issued, renewed or have claims made on, or after, 1 April 2011. Claims must be included regardless of when a policy was issued. ELRs should also make a statement about policies that are not required to be included. Firms have up to three months from the date of a transaction to include a policy in the register.

Full details of our requirements are in our Handbook – **ICOB 8.4** and **ICOB transitional provisions**.

We publish a list of information from firms on our **consumer pages** together with details of qualifying tracing offices. Further information is available on our **insurance specialist team pages**, including the notification template.

## Insurance Mediation Directive

The European Commission is currently reviewing the Insurance Mediation Directive (IMD). The Commission published its consultation paper at the end of November 2010, seeking views on proposed changes to the IMD regime including:

- a review of the scope of IMD – including a proposal to extend information disclosure obligations to insurers;
- conflicts of interest and remuneration;
- professional requirements;
- information disclosure;
- cross-border activities; and
- sales requirements for packaged retail investment products (PRIPs).

For details of the IMD review and the consultation paper see: [http://ec.europa.eu/internal\\_market/consultations/2010/insurance-mediation\\_en.htm](http://ec.europa.eu/internal_market/consultations/2010/insurance-mediation_en.htm)

With the Treasury, we submitted a joint UK response to the consultation paper at the end of February.

The Commission is currently conducting an impact assessment to gauge the consequences of the proposed changes to the IMD. This process is expected to be completed in June and the Commission should begin drafting the new IMD text in September. A first draft directive text is expected in December. We continue to seek to influence the development and drafting of the new IMD.

## Letter to aggregators

We have written to firms that we know are currently operating an online price comparison business model. The letter outlines our requirements on observing the rules on financial promotions, having appropriate permissions and complying with relevant sourcebook rules and our Principles for Business.

If you currently operate an on-line price comparison business model or sell your products via an online comparison firm, we ask you to familiarise yourself with the findings and requirements outlined in this **letter**.

## An overhaul of consumer insurance law

The Government has introduced the **Consumer Insurance (Disclosure and Representations) Bill**, which aims to radically change the relationship between consumers and insurance providers.

The Bill will give certainty to consumers and insurers by shifting the emphasis away from a consumer's duty to disclose all necessary information, to a requirement for insurers to ask particular questions and obtain specific information about their customers, before they issue an insurance policy.

“ *The Bill will give certainty to consumers and insurers* ”

The current law has changed little since 1906, and, with additional layers of regulation, has become complex and confusing for consumers, and expensive for the industry to administer.

The changes within the Bill, and its shift in emphasis, will provide better protection for consumers, while reducing the cost to industry.

## FSA priorities and budget for the year ahead

We published our *Business Plan* on 22 March 2011, setting out our priorities for 2011/12, and the implications for our budget. The document outlines our priorities and specific initiatives for the year ahead, which reflect the continuing challenges facing the financial services industry.

## Retail Conduct Risk Outlook – key to our new consumer strategy

We recently published our *Retail Conduct Risk Outlook*. It describes our view of key current issues, emerging risks and potential concerns to consumers posed by financial services firms. It is a key component of

## Prudential Risk Outlook – the economic context to our regulation

We published our *Prudential Risk Outlook* on 17 March 2011, setting out our assessment of macroeconomic and financial trends as a context for our micro-prudential regulation and supervision of firms.

our new consumer strategy and is designed to increase awareness of retail risks, help prevent widespread detriment, and to inform our supervisory focus.

We provide an overview of the key risks we see in the market, for example, in relation to payment protection insurance.

If you have any feedback, please contact us at **Conduct Risk**.

## Speeches

**Hector Sants**  
*Solvency II in context*  
Monday 18 April 2011

**Julian Adams**  
*The FSA's approach to the implementation of Solvency II*  
Monday 18 April

**Hector Sants**  
*The future of insurance regulation*  
Wednesday 9 February

## Feedback

If you have any feedback or suggestions for improving this newsletter please email [firmcommunications@fsa.gov.uk](mailto:firmcommunications@fsa.gov.uk)