

2018 – A regulatory reflection...

2018 has seen many regulatory changes that have affected us all. We look back at the regulations that have been implemented and those coming up in 2019.



At the start of 2018, we were getting ready for the introduction of the Insurance Distribution Directive, then the new Data Protection rules and waiting with bated breath to hear more about the proposed Senior Managers' regime.

So, as we pass from 2018 into 2019, how has the regulatory landscape changed?

The Insurance Distribution Directive (IDD)

We started the year concerned about the short implementation timescale. As you will recall, IDD was due on 23 February but the FCA did not issue the final Policy Statement until 19 January, leaving us with only a month to get sorted.

By that time, we were hearing stories from the EU about possible delays and at the start of March, the welcome news came that the implementation date was now 1 October 2018.

Many brokers would have had a significant amount of this new material already in place, such as conflicts of interest and full disclosure material, but still it left us all with issues to address. So, now we are approaching the end of 2018, take a step back and make sure you have everything covered.

Think about:

- Evidencing knowledge of the new eight topics.
- Review how you disclose panels. Have you changed to a "fair and personal analysis"?
- When you have schemes, have you reviewed/updated your product governance processes?
- Have you amended all your letters, reports and so on to cater for the commission disclosure requirements?
- What are you doing about the Good Repute requirements?

Not an exhaustive list by any means, but it is vital you have covered all the elements.

The General Data Protection Regulation (GDPR)

With GDPR, we had a fixed timetable to work through and we now have the Data Protection Act 2018 to back this up.

No doubt you have:

- Completed your data audit
- Put together your Privacy Notice
- Reviewed your record keeping and completed all the staff training with updated processes for Subject Access Requests and Right to Be Forgotten requests.

Just like with IDD, it's a good time to take stock and review matters to see if there are any issues to resolve or amend.

BREXIT

Brexit has certainly dominated the papers and news channels this year.

By the time this is published, we expected to know the outcome of the "Meaningful" vote in Parliament and adjust our approach as needed. However at time of writing, the vote has been postponed, throwing even more uncertainty into the mix.

Several burning issues seem to be the matter of Outward Passports, how will Insurance Brokers deal with their EU based clients and will we see the return of an old friend, the "Green Card".

We have seen Transitional Provisions proposed for those insurers who have Passported in to the UK which should secure markets for those firms using such facilities, but if there is no deal, life will carry on being complicated until any new trade deals are seen.

Really, we can only wait and see, but those firms with Passports need to consider how best to deal with those overseas clients if nothing else.

Credit worthiness and affordability

During the year, the FCA carried out work with the Premium Finance Houses which resulted in a firm reminder that all clients they were considering loaning money to must undergo an affordability and credit worthiness assessment. This has to be done by the lender not the insurance broker and the new rules came into effect on 1 November 2018.

As all applicants will now undergo more scrutiny, there may be a rise in the number of loans declined and insurance brokers need to consider how they will approach each client should this happen as alternative payment methods will be needed.

Renewal Transparency

Although primarily a consumer issue, the FCA has been paying close attention to how this is being managed and we have already seen the regulator take action against a number of bodies for failures in this area. Expect more in 2019.

Succession planning

Whilst not an obvious regulatory issue, the FCA is paying a significant amount of interest to this.

It's all part of the adherence to the Fifth Threshold Condition, that is a sustainable and viable business model. They want to see that you will be around in 5, 10 or 15 years.

But it's not just about the exit strategy for retirement, it's covering absence of key people and replacing important skill sets.

It's a topic that will gain more importance during 2019.

Senior Managers & Certification Regime (SMCR)

At long last, we now have one major policy statement after the thousands of pages of consultations (be aware, more consultations are on the way!) and we now know the effective date for insurance brokers is 9 December 2019.

During 2019 (now that the dust is settling on IDD and GDPR) firms will need to ensure that their systems and controls are updated.

Now is the time to think about:

- New Statement of Responsibilities for Senior managers
- New codes for all staff to be trained on
- Identification of who may be caught by the Certification regime
- New training requirements
- New contracts for staff
- New recruitment processes
- New FCA reporting requirements
- Possible new function holders to be applied for if you have Non Exec Chairs.

Again, not an exhaustive list, but firms do need to have it on their radar. The FCA has produced a good [guide](#) for firms, make sure all your directors or partners have a copy.

Conclusion

We would all agree that the pace of new and changing regulation remains unabated. The coming year will come with its own set of challenges, including the London Market review, delayed now into 2019, which we will provide an update on in the New Year when further information has been released.

Many of you will embrace the regulatory changes as opportunities whilst others grapple to get their house in order. At the risk of stating the blindingly obvious, regulation is here to stay and those that continue to take a proactive approach generally have a better night's sleep.

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