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Advanced insurance broking

Update bulletin, April 2013

Please note the following update to your October 2012 edition of the 930 study text. This update is in two parts:

Part 1: Changes to UK financial services regulation

Part 2: The Consumer Insurance (Disclosure and Representations) Act 2012

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Part 1: Changes to UK financial services regulation

Contents

Note: Website references current as at April 2013.

Important note:

The following update provides commentary on the main areas of change in UK financial services regulation due to the enactment of the **Financial Services Act 2012**; make sure you are monitoring the financial/insurance trade press and the new regulators' websites for further developments and announcements.

Section 2.1 of the 930 examination syllabus has been amended for the October 2013 examination (see Appendix 1.2) and all references to the FSA and UK financial services regulation throughout the 930 text should now be interpreted in the light of the new regulatory structure described below. The principal text references affected in the November 2012 edition of the 930 study text are:

Chapter 5
Introduction, sections A and B: see the following update on the post 1 April 2013 regulatory structure. Note that insurance brokers are now authorised and regulated by the Financial Conduct Authority (FCA) for both prudential and conduct of business issues.

Sections C to G: these sections remain relevant for FCA regulation.

Section H: note that the ICOBS and CASS sourcebooks now appear in the FCA Handbook, and not in the PRA Handbook, reflecting the difference between conduct and prudential regulation.

Sections I and J: see the following update on the post 1 April regulatory structure.

Chapter 6
Section A and A1: these sections continue to apply.

Section B: the content of this section and the 'Dear CEO' letter continue to be relevant.

Section C: the content of this section continues to apply under the FCA.

Section D: this section continues to apply but must be read in conjunction with the following update so that you understand the change in emphasis under the FCA.

Sections E and F: these sections continue to apply under FCA regulation.

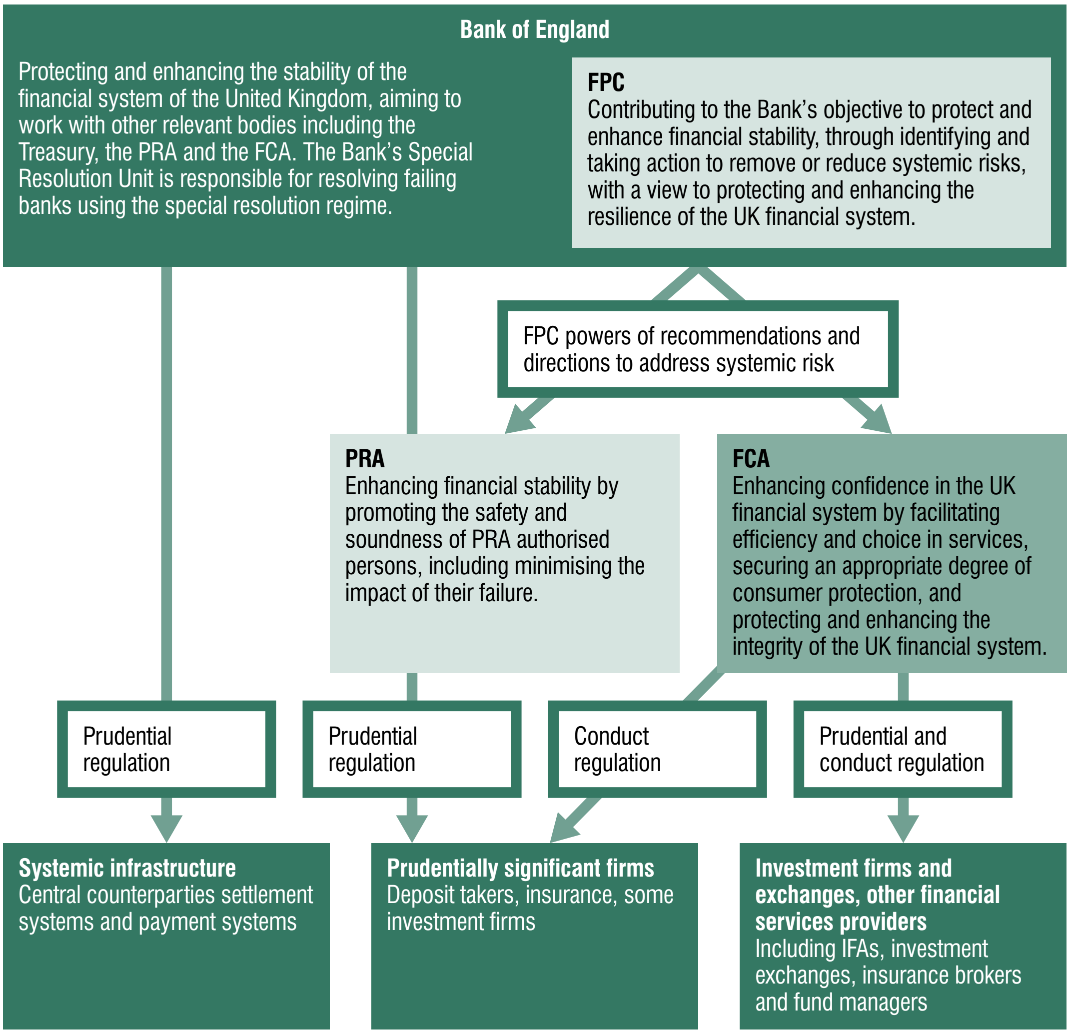
All remaining sections continue to apply.

Activity

See appendix 1.3 for a summary of the contents of the new regulators' Handbooks and familiarise yourself further by visiting the FCA website from where both the FCA and the PRA Hand books can be accessed: www.fca.org.uk

Introduction

Figure 1: New Regulatory Structure – post 1 April 2013



Source: HM Treasury

The **Financial Services Act 2012** gained Royal assent in December 2012 and from 1 April 2013 three new financial services regulatory bodies have been established:

Financial Conduct Authority (**FCA**) (website: www.fca.org.uk)

- A separate independent regulator responsible for **conduct of business and market issues** for **all** firms and prudential regulation of small firms, such as **insurance brokerages** and financial advisory firms.
- The FCA will be focused on taking action early, before consumer detriment occurs.
- There will be a shift towards thematic reviews and market-wide analysis to identify potential problems in areas such as financial incentives.
- The FCA will review the full product lifecycle from design to distribution with the power to ban products where necessary.

Prudential Regulation Authority (**PRA**) (website: www.bankofengland.co.uk/pra)

- The PRA sits within the Bank of England and is responsible for the stability and resolvability of systemically important financial institutions.
- It will not seek to prevent all firm failures but will seek to ensure that firms can fail without bringing down the entire financial system.
- The PRA will place emphasis on a 'judgment based' approach to supervision focusing on: the external environment, business risk, management and governance, risk management and controls and capital and liquidity.

Financial Policy Committee (FPC)

- A committee within the Bank of England responsible for watching for emerging risks to the financial system as a whole and providing strategic direction for the entire regulatory regime.
- The FPC will have the power to use so-called 'macro-prudential tools' to counteract systemic risk. The tools might include imposing leverage limits on banks or enforcing particular capital requirements for given asset classes.

1. Financial Conduct Authority (FCA)

Chief Executive: Martin Wheatley

1.1 Scope

The FCA will regulate approximately 27,600 firms. This includes:

- firms solely regulated (for prudential **and** conduct issues) by the FCA. These are firms that are deemed of limited systemic importance. Examples include: personal investment firms, investment management firms, mortgage and **insurance intermediaries**, authorised professional firms, providers of market trading infrastructure, and non-bank mortgage lenders. It will also include Lloyd's members' agents and Lloyd's brokers.
- firms regulated purely for conduct of business issues. These firms, deemed to be systemically important are prudentially regulated by the PRA and conduct regulated by the FCA. They include banks, building societies, credit unions and general insurers and life insurers, Lloyd's and Lloyd's Agents.
- firms regulated under other legislation. These are electronic money institutions and payment institutions.

The FCA has also taken over the FSA's responsibility for the Financial Ombudsman Service, will oversee the Money Advice Service, and also have responsibility for the Financial Services Compensation Scheme.

1.2 Objectives

The Financial Services Act 2012 states that the FCA will have an overarching strategic objective to '**ensure that the relevant markets function well**' and FCA says that it '**exists to make sure that markets work well so that consumers get a fair deal**'.

It will also have three operational objectives:

- **Consumer protection**: securing an appropriate degree of protection for consumers.
- **Integrity**: protecting and enhancing the integrity of the UK financial system.
- **Competition**: promoting effective competition in the interests of consumers in the markets for:
  - regulated financial services; and
  - services provided by a recognised investment exchange.

Additional factors that the FCA (and PRA) must have regard to include:

- efficient and economic use of resources;
- proportionality;
- consumer responsibilities; and
- transparency.

1.3 The FCA's approach to regulation

Product intervention and governance: the FCA is aiming to be more proactive than FSA and will 'intervene earlier in the product's life span and seek to address root causes of problems for consumers.' Powers can include temporary intervention rules and product pre-approval. This is discussed in more detail below.

Super-complaints: the FCA is to be a body able to review and react to detailed submissions by consumer groups. Previously only the Office of Fair Trading could receive these 'super-complaints' highlighting systematic problems in particular markets. Previous submissions have led to inquiries from the Competition Commission into payment protection insurance and extended warranties.

Competition powers: the FCA's competition objective – to promote effective competition in the interests of consumers means:

- firms must compete for business by offering better services, better value and types of products that customers want and need;
- prices offered are in line with costs; and
- firms will innovate and develop new products over time: the FCA will draw a distinction between 'good' innovation that meets consumers' genuine needs and other types that exploit consumers.

1.4 The FCA's approach to supervision

Figure 2: Supervisory Approach

Source: Journey to the FCA.

General principles: the supervisory system is designed so that firms are encouraged 'to base their business model, culture and how they run the business on a foundation of fair treatment of customers set out in the Treating Customers Fairly (TCF) initiative.' The system 'will act more quickly and decisively and be more pre-emptive in identifying and addressing issues before they cause harm, with senior staff involved in decisions at an early stage.'

Supervisor organisation: this approach will require a more flexible focus on bigger issues as they emerge, either in individual firms or across sectors. This will mean that some larger-risk firms might have an assigned supervisor with highly intensive contact, whereas others might be contacted once every 3-4 years.

Firm categorisation: a new system is being introduced and firms have been contacted in advance about which category they fall into. The system covers risk categories C1 (large banking and insurance groups with very large number of retail customers) to C4 (smaller firms including most intermediaries).

1.5 Risk framework

A new risk framework will replace the previous ARROW system which operated under FSA. The new framework is based on the following three pillars:

1. **Firm Systematic Framework (FSF)**: designed to assess a firm's conduct risk, asking the question 'are the interests of customers and market integrity at the heart of how the firm is run?'. This entails business model and strategy analysis, embedding of TCF including governance and culture, product design, sales and transaction process, and post-sales services.
2. **Event-driven work**: supervisory activity in response to issues that are emerging or have recently happened. This is the flexible element of how the FCA will allocate its supervisory staff so that resources are devoted to situations and firms of heightened risk to consumers. For example, whistle blowing alleged misconduct or a spike in reported complaints.
3. **Issues and products**: the flexible approach will also allow the FCA to look at reviews of issues and products as they take place.

Comparison between ARROW and FSF

ARROW	FSF
Point-in-time assessment	Form of continuous assessment for C1 and C2 firms
Primarily issues based i.e. discovery work on issues considered to be higher risk	Assessment of key drivers of conduct risk with work targeted by business and strategy analysis (BMSA)
Assessment results in letter and risk mitigation programme that frequently has many actions	Assessment results in letter and risk mitigation programme focused on a few key areas to be addressed
Extensive follow-up work by supervisors	Follow-up work done by firm with greater use of, for example, skilled person's reports, internal audit and non executive reports (section 166 powers)

In focus: the FCA's approach to supervising small firms

The FCA will place firms into four different categories according to size and type of customer base (i.e. retail/wholesale) ranging from those firms with a large number of retail customers (C1 firms) to 'smaller firms including almost all intermediaries' (C4).

C4 firms will experience the least intrusive regulation of all. But supervisors will still be looking for small firms to identify and take action to reduce risks to consumers. The FSA set in train a new supervisory model for small firms, known as the Revised Approach to Small Firms Supervision which the FCA will continue. This new framework consists of:

- A 'touch point' (e.g. roadshow, phone call or online assessment) with all C4 firms once every four years. Exact interaction will depend on FCA assessment of risks posed by firms.
- To identify initial level of risk the FCA will use the online reports that firms submit through the GABRIEL reporting system, along with other data sources such as information from firm visits or the FCA's contact centre.
- Firms identified as high risk and 25% of medium risk firms will have face-to-face interviews. The FCA will provide verbal feedback at this stage, followed by a letter setting out any remediation points, which will need to be addressed by the firm's senior management.
- Firms deemed to be 'high risk' after the interview will be subject to a follow-up visit.

Whilst the supervision of small firms will be relatively light-touch by comparison to larger firms, the degree of intrusiveness from the regulator will depend on the ability of small firms to show best practice in the interests of customers. Similar to large firms then, small firms must consider the appropriateness of employees' training and competence, the governance of incentive schemes, and the kinds of systems and controls necessary to resolve potential conflicts of interest if they want to successfully navigate the new regulatory regime.

1.6 Earlier Intervention

As noted above, the FCA has new powers to intervene to prevent detriment occurring. The Financial Services Act 2012 confirms a number of regulatory initiatives to shift the balance from tackling the symptoms of consumer detriment to the 'root causes'. Examples include:

1.6.1 Banning products (applies to the retail sector)

- Where the FCA identifies a serious problem with a product or product feature, it will be able to take timely and necessary steps to ban it.
- The legislation enables the FCA to make temporary product intervention rules without prior cost-benefit analysis or consultation valid for up to 12 months.
- The FCA will be required to consult on a set of principles governing the circumstances under which it will use this power.
- The FCA will only be allowed to use its product intervention powers in relation to retail customers.

1.6.2 Withdrawing misleading financial promotions

The FCA can take action in relation to misleading financial promotions. It can also disclose the fact that enforcement action against a firm or individual has commenced.

It will be required to alert a firm to its proposed course of action, and to allow for and consider representations by firms before publishing any details of its action.

1.6.3 Publication of enforcement action

The FSA was already being more proactive about enforcement, and in 2011/2012 there had been a marked increase in the intensity and incidence of enforcement actions.

The FCA will drive this forward with even greater intensity, bringing more enforcement cases and pressing for tougher penalties, and being more willing to pursue cases against individuals including senior management.

The FCA is able to publish the fact that a warning notice has been issued about a firm as well as a summary of the notice. This new power is available to both the FCA and PRA.

In making a decision about whether or not to disclose the warning notice, the regulator must consider a number of factors including whether publication of the information would be unfair to the person to whom the warning notice relates.

1.6.4 Market intelligence gathering and research

The FCA has a new **Policy, Risk and Research Division** that will 'combine research into what is happening in the market and to consumers with better analysis of the type of risks where they appear.' It will be the 'radar' of the organisation.

- It will identify and assess risks to consumers, creating a common view to inform the FCA's supervision, enforcement and authorisation functions.
- While relying on existing sources for evidence including consumer groups, the media and ongoing market monitoring and analysis, more use will be made of the consumer action line.

In focus: the FCA's thematic and proactive approach

The FSA had said that its investigation and subsequent guidance consultation on financial incentives was an example of the type of work that the FCA will be undertaking going forward. Following a thematic review of sales practices across retail financial services firms including banks, financial advisory firms and insurers, the regulator found that 20 out of 22 firms assessed did not properly identify how their incentive schemes might encourage staff to mis-sell. Indeed the FSA found that many firms did not understand their own incentive schemes because they were so complex, making the schemes hard to control.

As a result of the findings, the consultation noted that the FSA would consider strengthening the rules in the area of financial incentives. In the meantime, in order to help ensure better practice, the consultation set out the types of incentive schemes that might increase the risk of mis-selling and provided information on best practice in terms of the governance of incentive schemes.

The financial incentives work is a clear indication of the likely direction for the FCA – with a more 'proactive' interventionist remit using thematic reviews to focus on the culture of firms from product governance to front line sales. Through future supervisory visits and thematic reviews, the regulator will be looking for evidence that firms put the interests of consumers at the heart of what they do. We can expect to see more action by the regulator in this vein once the FCA is up and running.

For more information about the approach to handling financial incentives see FSA's final guidance: Risks to customers from financial incentives:

www.fca.org.uk/static/fca/documents/finalised-guidance/fsa-fg13-01.pdf

1.7 Authorisation and approvals

While the fundamentals of the FSA's authorisation function remain, the FCA will focus on the proposed business model, governance and culture, as well as the systems and controls the firm intends to put in place especially over:

- product governance;
- end-to-end sales processes; and
- prevention of financial crime.

The FCA will also work closely with the PRA in considering applications to approve individuals to roles which have a material impact on the conduct of a firm's regulated activities. The FCA will seek to assess that applicants have a good understanding of how to ensure good outcomes through:

- corporate culture;
- conduct risk management; and
- product design.

1.8 Accountability

The FCA will be required to report annually to Government and Parliament.

- There will be oversight of the FCA's work by a Board appointed by the Government with a majority of non-executive directors.
- The Financial Services Act 2012 contains a provision for independent reviews of the efficiency and effectiveness of the FCA's use of resources.
- There is also a requirement for the FCA to make a report to the Treasury in the event of a regulatory failure and where this failure was due to the FCA's actions.
- However, it is noted that the obligation to publish a report, and the desirability of transparency, should not impede or prejudice the FCA's ability to pursue enforcement investigations. In such circumstances, publication would be delayed until enforcement action is completed.

1.9 Engagement with consumers

The FCA will seek to build a better understanding of consumer behaviour, consumer needs and consumer experiences to shape how it designs its interventions.

- It will also engage more with consumers directly, including through social media, consumer bodies, road shows, focus groups and face-to-face contact.
- Finally, the FCA will collect and analyse consumer information from other sources such as complaints, including those investigated by the Ombudsman, and external commercial, academic and public interest research.

1.10 Transparency and disclosure

The FCA is required to put in place four statutory panels representing the views of consumers, regulated firms, smaller regulated firms and market practitioners.

- It will build on the FSA's approach to consultation as part of the rule-making process and will seek to develop more effective ways of getting feedback on proposals, including from consumers and their representatives.
- It will publish more information about its views on markets (key trends, products and services) and the comparative performance of a firm.
- It will recognise that necessary restrictions on disclosure exist in UK and EU law. However, where disclosure of information would be incompatible with the FCA's objectives, the FCA will not have to disclose information.

2. The Prudential Regulation Authority (PRA)

Head: Andrew Bailey

2.1 Scope

The PRA is responsible for the prudential regulation of all 'systemically important firms' defined as those firms that pose a risk to the financial system if they were to fail. The PRA is responsible for the regulation of all institutions that accept deposits or which accept insurance contracts. This will mean that the PRA will authorise, and supervise for prudential matters all banks, building societies, credit unions, **general insurers and life insurers (but not insurance intermediaries)**.

2.2 Objectives

Under the Financial Services Act 2012, the PRA has a primary objective to 'promote the safety and soundness of PRA regulated persons'.

It will also have two secondary objectives:

- ensuring that PRA authorised persons carry on in a way which avoids adverse effect on the stability of the UK financial system; and
- minimising the adverse effect that the failure of a PRA-authorised person could be expected to have on the stability of the UK financial system.

Additional insurance objective

The Government also announced after considerable concerns raised by the CII and others that '*the distinct nature of insurance business ought to be recognised in the regulatory framework, including the PRA's objectives*'. A new section was therefore added to the legislation to clarify the specific responsibilities that the PRA will face in relation to insurers.

The insurance objective is:
contributing to the securing of an appropriate degree of protection for those who are or may become policyholders.

In relation to this additional objective, the PRA also has a specific responsibility to secure: an appropriate degree of protection for the reasonable expectations of policyholders as to the distribution of surplus under with-profits policies.

2.3 Threshold Conditions

The 'Threshold Conditions' will be the minimum requirements that firms must meet in order to be permitted to carry on regulated activities. The Threshold Conditions for which the PRA will be responsible are designed to promote safety and soundness, and firms must ensure that they meet them at all times.

2.4 Judgment-led regulation

The PRA's judgment-led approach to supervision will be characterised by a move away from rules and a focus on forward looking analysis including an assessment of how a firm would be resolved if it were to fail, the impact this would have on the system as a whole and the use of public funds. The aim is therefore to 'pre-empt risks before they crystalise'. Central to the new approach is a new risk assessment framework.

2.5 Risk assessment framework

The new framework will operate in a way that reflects the PRA's additional objective to protect policyholders as well as the financial system. The framework will capture three elements:

1. The potential impact on policyholders and the financial system of a firm coming under stress of failing.
2. How the macroeconomic and business risk context in which a firm operates might affect the viability of its business model.
3. Mitigating factors, including risk management, governance, financial position including its solvency position and resolvability.

Figure 3: The PRA's new risk framework

Gross risk			Mitigating factors					
Potential impact	Risk context		Operational mitigation		Financial mitigation		Structural mitigation	
Potential impact	External context	Business risk	Management and governance	Risk management and controls	Liquidity	Capital	Resolvability	

Source: The PRA's approach to insurance supervision, reproduced with permission of the PRA.

2.6 The intensity of supervision

The intensity with which firms will be supervised by the PRA will depend on their level of riskiness related to the areas above.

However, all firms will face at least a **'baseline level of monitoring'**. This will involve:

- ensuring compliance with prudential standards for capital;
- liquidity, asset valuation, provisioning and reserving;
- at least an annual review of the risks posed by firms or sectors to the PRA's objectives;

and

- assessing a firm's planned recovery actions and how it might exit the market.

2.7 Proactive Intervention Framework (PIF)

The PRA's judgment about proximity to failure will be captured in a firm's position within the Proactive Intervention Framework (PIF). Judgments about a firm's proximity to failure will be derived from those elements of the supervisory assessment framework (see Figure 3) that reflect the risks faced by a firm and its ability to manage them — namely, external context, business risk, management and governance, risk management and controls, capital and liquidity.

There will be **five** clearly demarcated PIF stages, each denoting a different proximity to failure, and every firm will sit in a particular stage at each point in time. As a firm moves to a higher PIF stage — i.e. as the PRA determines that the firm's viability has deteriorated — supervisors will review their supervisory actions accordingly. Senior management of firms will be expected to ensure they take appropriate remedial action to reduce the likelihood of failure, and the authorities will ensure appropriate preparedness for resolution.

In focus: firms' culture and prudential supervision

The PRA will expect insurers to have a culture that supports their prudent management.

In summary, under the PRA:

- **firms** must have sufficient controls to minimise excessive risk taking;
- **insurers and individuals** must behave in an open and co-operative manner; and
- **an insurer's board** must take responsibility for establishing, embedding and maintaining the type of culture described above.

The PRA's supervisory approach suggests that firms will face increased scrutiny the more their organisational culture fails to demonstrate a strong, joined-up model to managing the prudential risks related to their business. Supervisors will assess risks using expertise and judgment rather than box-ticking. It is therefore up to firms to show how their organisation is managing prudential risks appropriately – no one approach to risk management will be right for everyone. If firms fail to do this they could find themselves facing greater intervention from the regulator as they move up the PIF.

2.8 The regulation of Lloyd's of London

The PRA will be the lead regulator for Lloyd's as a whole although the FCA will take responsibility for certain conduct of business issues. The legislation confirms that 'The Society of Lloyd's and Lloyd's managing agents will be dual regulated firms; Lloyds members' agents and Lloyd's brokers will be FCA-regulated firms'.

3. New Handbooks

At legal cutover (1 April 2013), the FSA Handbook was split between the FCA and the PRA to form three new Handbooks: one for the PRA, one for the FCA, and a combined version showing provisions of both handbooks with 'badges' indicating which regulator applies each provision to firms. Most provisions in the former FSA Handbook have therefore been incorporated into either the PRA's Handbook, the FCA's Handbook, or both, in line with each new regulator's set of responsibilities and objectives.

The new Handbooks reflect the new regulatory regime (for example, references to the FSA replaced with the appropriate regulator), and in some areas more substantive changes have been needed to reflect the existence of the two regulators, their roles and powers.

See appendix 1.3 for a summary of the contents of the new handbooks. Note that the Principles for businesses (PRIN) and SYSC sourcebooks now appear in both the PRA and FCA's Handbooks while the ICOBS sourcebook has been carried over into the new FCA Handbook. FCA has said that overtime the way its principles, rules and guidance are presented will inevitably change, and once established it will review the way it presents material to make it more 'user-friendly and accessible'. FCA and PRA will need to co-operate, co-ordinate and consult over proposed changes to rules and requirements. FCA has also said that it wants to issue more concise and clearer guidance than previously.

4. Co-ordination

Given the potential for regulatory overlap between the FCA and PRA, the legislation provides a number of general co-ordination mechanisms:

- **A statutory duty on the PRA and the FCA to coordinate** their activities (including consulting with one another to gather views where necessary).
- An obligation to prepare a **Memorandum of Understanding** (including setting out the role of each regulator and how they are interlinked).
- Cross-membership of boards.
- A **veto mechanism** for the PRA to reduce the risk of regulatory actions threatening financial stability or the disorderly failure of a firm. See below 'in focus' box for more details.
- A requirement that the PRA and FCA include in their annual reports an account of how they have co-ordinated during the year.
- The regulators have also set out a **MOU on with-profits** business between the PRA and FCA.

In focus: the PRA's veto power

The PRA's power of veto ensures that the new regulatory regime can, at certain times of stress, prioritise financial stability over consumer protection. According to the Financial Services Act 2012, the PRA can direct the FCA to refrain from particular action if it believes that action might threaten financial stability or result in the failure of a PRA-authorised person.

In 'normal times', free of serious economic stress, there is arguably little risk of the veto being invoked. But it is far from certain how it will be used during episodes such as the recent financial crisis. Questions remain about when the PRA will decide to invoke this power and what effect this will have on customers.

5. Financial Policy Committee (FPC)

Chair: Sir Mervyn King until May 2013, then Mark Carney – incoming Governor

5.1 Scope and objectives

Run by the Bank of England, the FPC has responsibility for **macro-prudential supervision**. It is responsible for spotting the systemic risks 'attributable to structural features of financial markets or to the distribution of risk within the financial sector'. It is also responsible for identifying unsustainable levels of leverage, debt or credit growth.

Having identified the risks, the FPC will have the power to take various policy measures to counteract them. Examples of so-called macro-prudential tools include:

- **Setting countercyclical capital buffers**: ensuring that banks increase their capital in the 'good times' so they have protection for the bad. This should also have the effect of tempering lending during a boom and so dampening the effect of the credit cycle.

- **Variable risk weights**: enforcing targeted capital requirements on specific sectors or asset classes. This could include requiring banks to hold greater levels of capital against asset exposures that represent substantial risk.
- **Leverage Limits**: limiting excessive build up of on and off balance sheet leverage. Since measures of risk can be unreliable, a leverage ratio could act as a back-stop to risk-weighted requirements (such as a capital buffer).

As well as these financial stability considerations, the FPC also has a statutory obligation to limit the impact of its policies on economic growth.

6. Useful websites

FCA: www.fca.org.uk

To read about FCA's approach to regulation see:
www.fsa.gov.uk/pubs/other/journey-to-the-fca-standard.pdf and for the FCA Risk Outlook published 25 March 2013, see www.fca.org.uk/your-fca/documents/fca-risk-outlook-2013

PRA: www.bankofengland.co.uk/pra, for example see the PRA's 'Approach to Insurance Supervision' dated April 2013

FPC: www.bankofengland.co.uk/financialstability/Pages/fpc/default.aspx

Appendix 1.1: Amendments to revision questions/answers and scenarios

1. Revision questions (page 5/23)

Replace Question no 1 with the following: Describe the key differences between the roles of the FCA and the PRA.

Replace Question no 4 with the following: What are the three pillars of the FCA's approach to supervision?

Replace Question no 5 with the following: What facts will the FCA consider when ....

2. Revision answers (page 5/24)

Answer 1: replace with the following

- The FCA is responsible for the conduct of business and market issues for all firms and the prudential regulation of small firms such as insurance brokers.
- The FCA will place more emphasis on thematic reviews and market-wide analysis to identify potential problems.
- The FCA will be involved in the full product life cycle with the power to ban products.
- The PRA sits within the Bank of England and is responsible for the stability and resolvability of systemically important financial institutions.
- The PRA will not seek to prevent all firm failures but will seek to ensure that firms can fail without bringing down the entire financial system.
- The PRA will place emphasis on a 'judgment based' approach to supervision focusing on: the external environment, business risk, management and governance, risk management and controls and capital and liquidity.

Answer 2: line 2 – replace the reference to 'FSA' with 'FCA'; line 3 – amend to '.... the FCA's functions under the Financial Services Act 2012'.

Answer 3: replace references to FSA throughout with 'FCA'; line 2 – amend to ' ... the FIT module of the FCA handbook'.

Answer 4: replace with the following:

The three pillars of the FCA's approach to supervision are: general principles; supervisor organisation and firm categorisation.

Answer 5: bullet points 4 and 8 – replace the reference to 'FSA' with 'FCA'.

3. Scenario 5 Approved persons – Question (page 5/23)

Lines 3 and 6 – replace the references to 'FSA' with 'FCA'

Appendix 1.1: Amendments to revision questions/answers and scenarios

4. How to approach your answer, Scenario 5 (page 5/24-25)

1. Replace ‘Objectives of the FSA’ with the following:

Objectives of the FCA
Overarching objective: to ensure that the relevant markets function well;

Operational objectives:

- **Consumer protection** – securing an appropriate degree of protection for consumers.
- **Integrity** – protecting and enhancing the integrity of the UK financial system.
- **Competition** – promoting effective competition in the interests of consumers in the markets for regulated financial services and services provided by a recognised investment exchange.

2. Replace references to ‘FSA’ with ‘FCA’ throughout.

5. Revision answers (page 6/26)

Answer 1: bullet points 1 and 3 – replace the references to ‘FSA’ with ‘FCA’;

Answer 4: bullet points 3 and 4 – replace the references to ‘FSA’ with ‘FCA’

6. Amendment to Scenario 6 How to approach your answer (page 6/27)

Bullet 5: replace ‘FSA’ with ‘FCA’

Appendix 1.2: October 2013 examination syllabus for unit 930

Advanced insurance broking

CII

Purpose
To provide knowledge and understanding of the management and operation of insurance broking organisations.

Assumed knowledge
Assumed knowledge may not appear in detail within the learning outcomes but forms part of the syllabus and may be examined. It is assumed that the candidate already has the knowledge gained from a study of the relevant sections of IF1 Insurance, legal and regulatory, P05 Insurance law and P81 Insurance broking practice or equivalent examinations.

Summary of learning outcomes

1. **Understand the competitive environment for insurance brokers.**
2. **Understand the management, implementation and control of regulation, compliance and the law as they apply to insurance brokers.**
3. **Understand the operational and management challenges faced by insurance brokers.**

Important notes

- **Method of assessment: Part I 1 compulsory question (case study) (80 marks). Part II 2 questions selected from 3 (scenarios) (80 marks). Total of 160 marks. Three hours are allowed for this exam.**
- **The syllabus is examined on the basis of English law and practice unless otherwise stated.**
- **The general rule is that the exams are based on the English legislative position six months before the date of the exams.**
- **Candidates should refer to the CII website for the latest information on changes to law and practice and when they will be examined:**

  1) Visit www.cii.co.uk/qualifications

  2) Select the appropriate qualification

  3) Select your unit on the right hand side of the page

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Appendix 1.2: October 2013 examination syllabus for unit 930

1. Understand the competitive environment for insurance brokers

1.1 Explain the non-life insurance market and the market cycle including its impact on insurance broking.

1.2 Analyse the role of brokers within the insurance market and their impact on it.

1.3 Examine the distribution models used by insurers and brokers, including transacting business with other brokers, and the new business process.

1.4 Examine the different methods of trading with clients.

2. Understand the management, implementation and control of regulation, compliance and the law as they apply to insurance brokers

2.1 Explain the regulatory environment and the approach to regulation.

2.2 Explain the implementation and control with respect to senior management systems and controls (SYSC) and ICOBs.

2.3 Explain the disciplinary procedures to which insurance brokers are subject and their implications.

2.4 Examine avoiding and managing conflicts of interest.

2.5 Explain the importance of training and competence.

2.6 Review the approach brokers need to adopt in treating their customers fairly.

2.7 Explain the procedures for dealing with complaints.

2.8 Examine the management of third parties, appointed representatives and introducers.

2.9 Explain the legal environment with reference to sanction and competition legislation and regulation.

3. Understand the operational and management challenges faced by insurance brokers

3.1 Describe the various types of intermediary – by size, specialism and geographical scope.

3.2 Analyse typical management structures.

3.3 Examine the challenge of international/global business.

3.4 Examine the importance of internal operational, management and financial controls.

3.5 Examine the role of corporate risk management within insurance brokers.

3.6 Explain the process of insurer selection including the analysis of the security of insurers and other intermediaries.

3.7 Explain the role of Terms of Business Agreements with insurers.

3.8 Explain the management of delegated underwriting authorities.

3.9 Examine the impact of public opinion on the wider insurance industry and the role of Chartered Broker status in raising professional standards.

3.10 Examine the implications of outsourcing and off-shoring.

3.11 Examine the importance of the business driving IT.

3.12 Analyse how brokers provide excellent client service, including the management of the annual renewal cycle.

3.13 Examine the role of segmentation within brokers.

3.14 Analyse the role of claims and different approaches to claims service.

3.15 Analyse the ways in which brokers are remunerated.

3.16 Describe the provision of risk related services by brokers.

Appendix 1.2: October 2013 examination syllabus for unit 930

Reading list

The following list provides details of various publications which may assist with your studies.

These will help candidates keep up-to-date with developments and will provide a wider coverage of syllabus topics.

Note: The examination will test the syllabus alone. However, it is important to read additional sources as 10% of the exam mark is allocated for evidence of further reading and the use of relevant examples.

The reading list is provided for guidance only and is not in itself the subject of the examination.

CII/Personal Finance Society members can borrow most of the additional study materials below from Knowledge Services.

CII study texts can be consulted from within the library. For further information on the lending service, please go to www.cii.co.uk/knowledge.

CII study texts

Advanced insurance broking. London: CII. 930 study text.

Insurance business and finance. London: CII. P92 study text.

Insurance broking practice. London: CII. P81 study text.

Additional reading

Additional reading materials are available through the library or on the Knowledge Services website.

New materials are added frequently – for information about new books and articles in your area of interest, please visit www.cii.co.uk/knowledge or email knowledge@cii.co.uk.

Books (and ebooks)

Insurance brokers: an industry accounting and auditing guide. 5th ed. M Grice, S Ouarbya. London: CCH Wolters Kluwer, 2012.

Corporate governance. 3rd ed. Christine Mallin. Oxford: Oxford University Press, 2007.

Corporate governance. 5th ed. Robert Monks and Neil Minow. London: Wiley, 2011.

Capital structure and corporate financing decisions: theory, evidence, and practice H. Kent Baker and Gerald S. Martin. Wiley, 2011.

Developing people and the corporate culture in financial services. Vlad Stanic and Denis Boyle. Woodhead Publishing, 1999.

Pinsent Masons guide to insurance distribution. 2nd ed. Andrew Long. London: Kogan Page, 2009.

Global perspectives on insurance today: a look at national interests versus globalisation. C Kempler et al. London: Palgrave Macmillan, 2010.

Winning client trust. Chris Davies. St Albans: Ecademy Press, 2011.

The broker's communication kit : communication and marketing for IIB members. Institute of Insurance Brokers. Higham Ferrers: Institute of Insurance Brokers, 1998.

Services marketing management. 3rd ed. Peter Mudie. Oxford: Butterworth-Heinmann, 2006.

FT guide to strategy. 3rd ed. Richard Koch. Harlow: Pearson Education, 2006.

Customer relationship management. Graham Roberts-Phelps. London: Hawksmere, 2001.

Managing information in financial services. 2nd ed. Phil Fawcett and Graham Flower. London: Financial World Publishing, 2004.

Marketing concepts and strategies. 5th ed. Sally Dibb. Abingdon: Houghton Mifflin, 2006.

Principles of direct and database marketing. 4th ed. Alan Tapp. Harlow: Pearson Education, 2008.

Marketing strategy. 3rd ed. Paul Fifield. Oxford: Butterworth-Heinmann, 2007. Also available as an ebook at www.cii.co.uk/knowledge (CII members only).

CRM in financial services. Bryan Foss. London: Kogan Page, 2002.

Financial services marketing. 3rd ed. Christine Ennew and Nigel Waite. Oxford: Butterworth-Heinmann, 2013. 2nd edition available as an ebook at www.cii.co.uk/knowledge (CII members only).

Money laundering: a concise guide for all business. 2nd ed. Doug Hopton. Gower, 2009. Also available as an ebook at www.cii.co.uk/knowledge (CII members only).

Executive's guide to solvency II David Buckham, Jason Wahl and Stuart Rose. Wiley, 2011. Also available as an ebook at www.cii.co.uk/knowledge (CII members only).

Business performance measurement. 2nd ed. Andy Neely. Cambridge, Cambridge University Press, 2011.

The balanced scorecard. Robert Kaplan and David Norton. Boston: Harvard Business School Press, 1996.

Harvard business review on measuring corporate performance. Boston: Harvard Business Review, 1998.

Strategic management. 5th ed. Richard Lynch. Harlow, Pearson Education, 2009.

Driving strategic change in financial services. Bernard Taylor and Ian Morison. Boca Raton: CRC, 1999.

On strategy. Harvard Business Review. Harvard Business Review, 2011.

Strategic employee surveys: evidence-based guidelines for driving organizational success Jack W. Wiley. Jossey-Bass, 2010.

Corporate risk management. 2nd ed. Tony Merna and Faisal Al-Thani. (Chichester: Wiley, 2008). Also available as an ebook at www.cii.co.uk/knowledge (CII members only).

The law of insurance broking. 2nd ed. Christopher Henley. London: Sweet & Maxwell, 2004.

'Claims against insurance brokers'. Chapter: Insurance claims. 3rd ed. Alison Padfield. (Tottel, 2012).

'Intermediary responsibility'. Chapter: Insurance disputes. 3rd ed. Jonathan Mance et al. (London: Informa, 2011).

Competing through skills. Amin Rajan et al. (Tunbridge Wells: CREATE, 1999).

Appendix 1.2: October 2013 examination syllabus for unit 930

Competition law and policy in the EC and UK. Barry Rodger, Angus MacCulloch. Routledge-Cavendish, 2009. Also available as an ebook at www.cii.co.uk/knowledge/resources (CII members only). Factfiles and other online resources.

Factfiles and other online resources

CII factfiles are written by subject matter experts within the insurance and financial services industry. They are updated annually, and interim update bulletins are included where necessary to take into account any major changes during the year. All are available online via www.cii.co.uk/knowledge (CII/Personal Finance society members only).

- The business of insurance broking. Ian Youngman
- Insurance accounting (general business).
- Insurance in the single market. Paul Clarke.
- Factors leading to a "hard" or "soft" insurance market. Ian Searle.
- Efficiency tactics within the insurance industry. Ian Searle.
- Recent developments to Solvency II. Brad Baker.
- Distribution for insurance brokers. Updated annually. Ian Youngman. (London: Chartered Insurance Institute). Available to CII members at www.cii.co.uk/knowledge/resources.
- E-commerce in insurance. Martyn Allez, updated by Ian Searle.
- The regulation of insurance intermediaries. Ian Youngman.

Insurance: Conduct of Business sourcebook (ICOBS). Available via www.fshandbook.info/FS.

Consumer Credit Act 1974. London: HMSO, 1974. Available via www.legislation.gov.uk.

Data Protection Act 1998. London: HMSO, 1998. Available via www.legislation.gov.uk.

Financial Services and Markets Act 2000. London: HMSO, 2000. Available via www.opsi.gov.uk.

Insurance Mediation Directive. Brussels: Office for Official Publications of the European Communities, 2002. Also Available via http://eur-lex.europa.eu

Money Laundering Regulations 2007. London: HMSO, 2007. Available via www.opsi.gov.uk.

Institute of Risk Management – www.theirm.org.

Please refer to the 930 study text for a detailed list of useful websites.

Reference materials

'Regulation'. Chapter: Insurance broking practice and the law. Looseleaf, updated. (London: Cameron McKenna).

'The broker's role and duties owed in the claims process'. Chapter: Insurance broking practice and the law. Looseleaf, updated. (London: Cameron McKenna).

'Competition'. Chapter: Insurance broking practice and the law. Looseleaf, updated. (London: Cameron McKenna).

Trends to watch in insurance. Datamonitor. (London: Datamonitor, 2012).

Periodicals

Post magazine. London: Incisive Financial Publishing. Weekly.

Insurance day. London: Informa. Daily except weekends.

Insurance age: broker. London: Association of Online Publishers. Monthly. Available online at www.insuranceage.co.uk.

Insurance times. London: Newsquest Specialist Media. Weekly.

Financial adviser. London: FT Business. Weekly. Also available online at www.ftadviser.com.

Money marketing. London: Centaur Communications. Weekly. Also available online at www.moneymarketing.co.uk.

Further articles and other resources can be found at www.cii.co.uk/knowledge/insurance-broking.

Examination guides

Guides are produced for each sitting of written answer examinations. These include the exam questions, examiners' comments on candidates' performance and key points for inclusion in answers. You are strongly advised to study guides for the last two sittings.

Older examination guides are available (for members only) via www.cii.co.uk/knowledge. Alternatively, if you have a current study text enrolment, the latest exam guides are available via www.revisionmate.com.

Exam technique/study skills

There are many modestly priced guides available in bookshops. You should choose one which suits your requirements.

The Insurance Institute of London holds a lecture on revision techniques for CII exams approximately three times a year. The slides from their most recent lectures can be found at www.cii.co.uk/knowledge/iilrevision (CII/Personal Finance Society members only).

Appendix 1.3: Summary of contents of FCA and PRA Handbooks from 1 April 2013

(See www.fca.org.uk for full Handbooks and Guides).

Sourcebook or manual	FCA	PRA
Glossary	•	•
High level standards		
PRIN	•	•
SYSC	•	•
FIT	•	•
FINMAR	•	•
TC	•	n/a
GEN	•	•
FEES	•	•
Prudential standards		
GENPRU	•	•
BIPRU	•	•
INSPRU	•	•
MIPRU	•	•
UPRU	•	n/a
IPRU-FSOC	•	•
IPRU-INS	•	•
IPRU-INV	•	•
Business standards		
COBS	•	•
ICOBS	•	n/a
MCOB	•	n/a
BCOBS	•	n/a
CASS	•	n/a
MAR	•	n/a
Regulatory processes		
SUP	•	•
Redress		
DISP	•	n/a
CONRED	•	n/a
COMP	•	•

Appendix 1.3: Summary of contents of FCA and PRA Handbooks from 1 April 2013

Specialist sourcebooks		
COLL	•	n/a
CREDS	•	•
PROF	•	n/a
RCB	•	n/a
BSOCS	n/a	•
Listing, Prospectus and Disclosure		
LR	•	n/a
PR	•	n/a
DTR	•	n/a
Handbook guides		
EMPS	•	n/a
OMPS	•	n/a
SERV	•	n/a
Regulatory guides		
BSOG	•	•
COLLG	•	n/a
FC	•	n/a
PERG	•	n/a
RPPD	•	n/a
UNFCOG	•	n/a

Part 2: Changes to disclosure and misrepresentations requirements

Contents

Part 2

2.1. The Consumer Insurance (Disclosure and Representations) Act 2012

Text reference: chapter 11, section G3, page 11/12

As part of the Law Commission's ongoing review of insurance contract law, this Act came into effect on 6 April 2013. Note that it covers only **consumer insurance** which it defines as insurance bought by individuals 'wholly or mainly for purposes unrelated to their trade, business or profession'.

In summary the Act does the following:

1. It abolishes the previous duty on consumers to volunteer all material facts and **consumers are instead required to take reasonable care not to make a misrepresentation before the contract is entered into or varied**. (In the case of a variation, the duty would apply only to information relating to the variation.)

   Insurers will still be able to ask general or open-ended questions but the clarity and scope of the questions would be taken into account in assessing whether or not the consumer's response was reasonable.

2. The Act provides different remedies for the insurer when faced with a claim that reveals mispresentation on the part of the consumer:

   - **If the misrepresentation was honest and reasonable**: the insurer must pay the claim. The consumer is expected to exercise the standard of care of a reasonable consumer, taking into account a range of factors, including the type of insurance policy and the clarity of the insurer's question(s).
   - **If the misrepresentation was careless**: the insurer has a compensatory remedy based upon what it would have done had the consumer taken care to answer the question accurately. If, for example, the insurer would have applied an exclusion it would not be required to meet claims which would fall within the exclusion, but must meet other claims falling within the policy scope. If the insurer would have applied an increased premium the proportionality approach* would apply. If it would not have accepted the risk it would be entitled to avoid the contract and decline all claims and would be required to refund the premium.

     * proportionality approach – the insurer's liability is reduced in line with the reduction in premium which the proposer achieved through their misrepresentation or non-disclosure.
   - **If the misrepresentation was deliberate or reckless**: the insurer is entitled to treat the policy as void and may decline all claims. It would also be entitled to retain the premium, unless there was a good reason why it should be returned.

3. The Act establishes a statutory code to determine for whom an intermediary (an 'agent' or 'broker') acts during the pre-contract stage. This code is based largely on the existing law, as supplemented by FOS practice and industry understanding. The Act features rules together with examples of factors that may tend to confirm that the agent is acting for the consumer or show that it is acting for the insurer.

4. It abolishes 'basis of the contract' clauses which have historically enabled the insurer to avoid the policy for any breach of the insured's warranting the truth of the information provided, however trivial or material the breach might be to the risk. This codifies modern practice for consumer insurance, which has featured in the industry Statements of Practice over the years. The Act closely reflects current Financial Ombudsman and market practice, the difference is that it now imposes a statutory duty on insurers to follow that practice.

5. **Future consultations and developments**

   Consultations were undertaken in 2011 and 2012 addressing the subjects of misrepresentation and non-disclosure from the perspective of commercial/business insurance, together with post-contract duty of good faith, breach of warranty, the law on insurable interest and other areas. Further legislation is likely to emerge during 2013.

Activity

The Law Commission's website to monitor progress of the reform project for business insurance is: www.lawcom.gov.uk/insurance_contract.htm