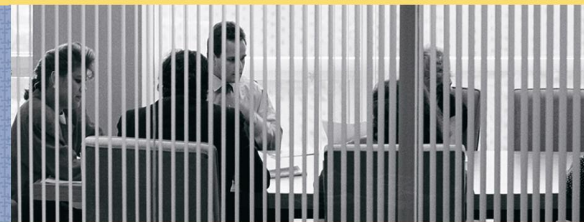


EU INSURANCE BRIEFING



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Summary of Financial Services Authority (“FSA”) Discussion Paper on Transparency, Disclosure and Conflicts of Interest in the Commercial Insurance Market (DP08/2)

1. Introduction

On 20 March 2008, the FSA published a Discussion Paper (the “DP”) in relation to pricing transparency in the commercial insurance market. The DP proposes ways to improve the clarity and consistency of information given to commercial insurance customers about the role and cost of intermediaries.

2. Background

2.1 In 2007, the issue of transparency in the mediation of commercial insurance was considered in two separate reports. The first was published by the European Commission and the second by CRA International (“CRA”) on behalf of the FSA. Both reports found that there was a lack of transparency in the commercial insurance market.

2.2 The CRA report concluded that the problem was not sufficient to justify mandatory disclosure of intermediary commission on cost-benefit grounds. However, it raised general concerns that commercial customers should be provided with more information in respect of: payment to intermediaries for mediation activities, services provided by intermediaries, the capacity in which an intermediary acts, and conflicts of interest which the intermediary may face.

2.3 As a result of the concerns raised in the CRA report, the FSA announced that it would produce a DP.

3. The FSA’s Concerns

3.1 To ensure that commercial insurance customers are protected, the FSA considers that intermediaries should: provide clear and accurate information, present information in such a way so that it may be compared across the market and over time, and ensure information is clearly available and accessible.

3.2 The FSA is concerned that current market practice does not meet these standards. The current legal framework (which requires insurance brokers to disclose information relating to commission only if the customer requests it) goes only some way to addressing this.

3.3 The FSA identifies the following key issues as having the potential to give rise to customer detriment and market inefficiency:

a. Commercial customers do not receive sufficiently clear and complete information as regards their intermediary, which adversely affects their ability to make informed decisions;

b. There is a lack of transparency in respect of commissions and other forms of remuneration, which creates a misleading picture of the cost of mediation for customers;

c. There is a general lack of understanding on the part of insurance customers as to the extent to which their intermediary searches the market and the intermediary’s relationship with insurers. This affects the customer’s ability to judge the value of the intermediary’s services; and

d. There is a lack of transparency in respect of the capacity in which intermediaries act, which gives rise to concerns as to how the intermediary manages any conflicts of interest.

4. *The FSA's Objectives*

4.1 The FSA sets out the following objectives which it considers would produce a more competitive and efficient market:

a. Customers should be provided with information as to the full cost of mediation including the likely extent of contingent commission (to be provided on a standardised and clear basis) and the total amount of commission paid to intermediaries throughout the chain;

b. Clear information should be provided to commercial customers about the intermediary's services, including the breadth of searches it undertakes;

c. Clear information should be provided to commercial customers in respect of the capacity in which an intermediary acts, i.e. whether it is acting for the customer, the insurer or both;

d. Conflicts of interest arising from remuneration arrangements should be properly disclosed;

e. Standardised and comparable information should be provided to customers to enable them to gauge the value of intermediary costs and services and compare these across the market and over time; and

f. Commercial customers should be made aware of their right to information on

commission and helped to appreciate the value of using such information.

5. *Suggested Solutions*

5.1 In order to achieve these objectives, the FSA suggests three possible solutions:

a. Improvement of the current regime through more rigorous supervision and enforcement of existing rules and principles;

b. Enhancement of the current "on request" regime in respect of disclosure of intermediaries' commission; and

c. Mandatory disclosure of commission by intermediaries (although the previous CRA report suggested that this approach would not be justified on a cost benefit analysis.).

5.2 The FSA does not appear to have strong views on which solution should be adopted.

CONCLUSION

It is clear that the FSA wishes to see reform in this area. However, the proposed solutions considered in the DP are offered for discussion purposes only and are not mandated. The FSA would seem to prefer an industry-led solution, if possible, and has invited industry comments by 25 June 2008.

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