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SAMPLE

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Dear

INSURANCE MONITORING – FCA REGULATORY APPROACH

I have recently had a number of discussions with clients, and other firms (when delivering training) where I have been asked to give my thoughts on how the FCA will prioritise its approach to regulation in the insurance market, in the light of the Consumer Duty.

In essence the questions revolve around:-

- The focus on fair value and the threats to profitability - and even viability; and
- the extent to which the regulator will supervise adherence.

I think it is fair to say that both these issues are raised with some frustration as to the level of comprehension at the regulator of the dynamics of insurance and its marketplace. There is also uncertainty as to whether firms should approach compliance at a high level, or should be covering off every conceivable issue/question which the FCA might raise with them.

I therefore thought that I would highlight some of the comments made by Nikhil Rathi, the FCA Chief Executive, when addressing an audience of market analysts last Thursday.

In relation to the Consumer Duty he summarised the fundamental outcomes which the FCA expect rather well:-

“Are the products and services well designed for their target market; are they sold honestly, and can people understand them; do people get fair value from them; and do they receive appropriate customer service?”

He went on to say (slightly edited by me to focus on your market) that:-

“Many firms have approached the Duty in the right spirit, putting themselves in customers’ shoes. They have:

- *used simpler and more accessible language*
- *been more upfront about product exclusions*
- *reviewed fair value, with some fees being removed or restructured . . .*
- *made significant technology investment in customer insights and service”*

He then concluded this part of his speech with the words:-

“We’re not setting out to trip firms up by going after technical breaches. We look favourably on firms taking reasonable steps to identify and proactively address concerns, even if mistakes are made”.

To highlight this he went on to say (again edited by me):-

“We have focused on the greatest harms – insurance products such as premium finance and GAP insurance. We have telegraphed these publicly over the last 2 years, so there should be no surprises”

I think this final observation does hint at some of the confusion which clients and other firms have raised with me.

I am asked why the regulator regards the GAP product as so “harmful” - when the FCA had, itself, put in place conduct of business processes expressly designed to ensure that the product, its price and its value are highlighted to protect customers. The (proportion) of complaints relating to GAP insurance are low – so customers are not expressing harm?

Coupled with that question is the further concern - is the focus on GAP a “one off” or is it the first domino to fall in a concerted attack on the ancillary insurance market?

I can give some answers, and some thoughts, as to those questions.

There is no doubt that, in terms of value measures data, GAP insurance is an outlier (though there are some good reasons for that). There is even less doubt that the GAP insurers have really surprised (and that is an understatement) the FCA by their absence of oversight over the product - and their inability to justify value.

If the FCA does not obtain clear understanding from insurers as to basic justifications for price, value and performance then it is hardly surprising that it starts to regard a product as potentially “harmful” to be retained in the market.

The question is whether the FCA will find the same shortcomings of oversight and rigour in the wider ancillary market?

You have had many letters from me focussing on the need for you to ensure that your product governance and oversight is centred around the ability to demonstrate your assessment of the value issues in your market, your wider product governance and oversight, and crucially the steps you have taken to address and (where necessary) resolve these.

In that connection it is well worth pausing to reflect on these thoughts from Nikhil Rathi:-

“A consistent theme [of the Consumer Duty] has been that the onus is on firms to satisfy themselves about fair value. That is not a Trojan horse for price regulation. We do not want to regulate prices, just as we don’t want to restrain profits for well-run businesses”

The regulator is looking for “well-run businesses” which can, not only satisfy themselves as to the fair value in their insurance activity, but which can deliver clear and convincing evidence of this to the regulator.

I often illustrate this imperative, when training, with the question:-

“would you be comfortable to justify the value and the (underlying) pricing of your product, and the way distribution is structured, to Martin Lewis on prime time TV”?

The GAP insurers have (metaphorically) sat in the interview chair and shrugged their shoulders.

Please make sure that you could, at least, have a highly informed, fair and convincing, debate with him – because that level of response is what the FCA will be looking for (at least, for now).

With kind regards,

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