STOP PRESS

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There is probably no need to remind firms that the General Data Protection Regulation (GDPR) comes into force on 25 May 2018. But with just a few days to go, it is worthwhile for firms to ask themselves a few vital questions:

- **Have we identified what personal data we hold, how we protect it, where it came from and whom we share it with?**
- **Have we updated our Privacy Notices and any other communications that refer to data protection?**
- **Do we have policies and procedures in place to deal with data subjects' rights under GDPR?**
- **Do we know what to do in the event of a data breach?**
- **Have we identified who is responsible internally for data protection and provided suitable data protection training to our personnel?**

As the UK Information Commissioner said "The 25th May will merely mark the end of the beginning of a very long journey for the data protection community."

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Alpha Insurance A/S declared bankrupt - FCA 9 May 2018

Alpha is an insurance firm authorised and regulated by the Danish Financial Supervisory Authority. It operates in the UK on a freedom of services basis which means that some customers, both private and commercial, based in the UK may have a policy with the firm. The Danish FSA has announced that Alpha Insurance A/S ('Alpha') has been declared bankrupt. UK policyholders need to find alternative cover as soon as possible.

The FCA advised Alpha insurance policyholders to immediately contact their insurance broker or firm who sold them their policy in the first instance in order to seek new insurance cover. It is possible that the Danish Guarantee Fund may cover some existing policies, primarily for policyholders with private insurance, until 5 June 2018.

[It appears Alpha was behind some UK motor fleet policies and insured drivers through brands such as Cover My Cab and Protector. Up to 700 taxi drivers and 10,000 minicab drivers have been affected, according to the Licensed Taxi Drivers Association. ICS understands the FSCS is working with the Danish authorities to put in place appropriate arrangements for claims to be handled.]

Insurance industry takes action on excessive differences between new customer premiums and renewals - BIBA 8 May 2018

The ABI and BIBA have launched a set of Guiding Principles and Action Points that will address some of the issues in the current market that can lead to excessive differences between new customer premiums and subsequent renewal premiums that unfairly penalise long-standing customers. By implementing this initiative, ABI and BIBA members can expect to see an improvement in the outcomes for long-standing customers. The ethos and approach to better outcomes for long-standing customers will be formally incorporated into firms' procedures for determining the premium at renewal. The Guiding Principles and Action Points (GPAPs) apply to key personal lines insurance products such as home, motor and travel, but not pet or health insurance. Many pet and private health insurance products provide cover at renewal for medical conditions that arose since the inception of the policy. These would generally not be covered under a new policy, meaning comparisons are not valid. Key commitments include:

- ABI and BIBA members do not support excessive differences between new customer premiums and subsequent renewal premiums that unfairly penalise long-standing customers
- ABI and BIBA members will take action so that customers' tendency to shop around at renewal is not used to lead to excessive pricing differences that unfairly penalise long-standing customers.
- The ethos and approach to better outcomes for long-standing customers will be given Board or senior management level priority and formally incorporated into firms' procedures for determining the premium at renewal.
- ABI and BIBA members should make clear in written, online or verbal customer communications that the new customer premium only applies for that year and subsequent renewal premiums may be higher.

The ABI and BIBA will publish a report in no more than two years' time that demonstrates how ABI and BIBA members have sought to tackle excessive differences between new customer premiums and subsequent renewal premiums that unfairly penalise long-standing customers.

See "Guiding Principles and Action Points": https://d10ou7l0uhgg4f.cloudfront.net/wp-content/uploads/2018/05/08101514/GPAP.pdf

Brexit: what does it mean for financial markets to be open? - FCA speech 24 April 2018

Andrew Bailey, Chief Executive, FCA delivered a speech on Brexit at the City Week 'The International Financial Services Forum', Guildhall, London. He stressed that the UK and EU will not be able to achieve a successful outcome during both transition and steady-state without working together. Now is the time for the UK and EU authorities to come together and work on the solutions to reduce the risks to financial stability that Brexit could pose. He said; "At the FCA we want to work closely with European Securities and Markets Authority (ESMA) and national EU regulators to continue to enhance the stability and effectiveness of global markets. This has global implications, not just for the UK and EU, so it is important that we get this right."

He went on to say; "The UK authorities have also set out plans for unilateral action in the UK to minimise cliff edge risks, providing continuity for firms doing business in the UK and confidence for their customers. The Government has committed to legislating for a temporary permissions regime. I welcome this, something that has been a priority for the FCA for some time as we believe that this provides certainty for firms which passport into the UK from the EU. Alongside this, we are working to ensure a functional regulatory framework on day one of Brexit and as much continuity as possible in any scenario. Crucial to this is the very large amount of work we are undertaking on the EU withdrawal legislation. But – and it is a big 'but' – while it is necessary to have unilateral actions in place for the UK, this is nonetheless a distinctly second best solution to the UK and EU authorities working together to deal with the risks. Let's get on with it please. "

Central Bank encourages UK firms passporting into Ireland to take action ahead of Brexit

The Central Bank of Ireland (the Irish financial services regulator) has been contacting UK registered insurance intermediaries who may be undertaking cross-border insurance mediation business ("passporting") in the Republic of Ireland. Its communication to firms, issued in April 2018, says that after the Withdrawal Date i.e. on 30 March 2019 or on the expiry of any agreed and applicable transition period, the UK will become a third country (non-EU) and UK registered insurance intermediaries will no longer be allowed to provide services in Ireland on the basis of their current registration.

The communication advises; "it is increasingly incumbent upon UK registered insurance intermediaries passporting into Ireland to take the necessary steps to prevent insurance mediation activities without registration and ensure service continuity with regard to insurance contracts mediated before the Withdrawal Date. In this regard, the Central Bank expects all UK registered insurance intermediaries passporting into Ireland to:

- assess, on an ongoing basis, the impact of the withdrawal of the UK from the EU on their business, including for the service continuity of insurance mediation contracts concluded by way of freedom of establishment and freedom to provide services;
- implement the necessary measures to prevent insurance mediation activity without registration and ensure service continuity by the Withdrawal Date; and
- develop contingency plans that set out measures to prevent insurance mediation activity without registration and ensure service continuity after the Withdrawal Date.

The regulator encourages UK registered insurance intermediaries, who are considering applying to the Central Bank for registration, to contact the Central Bank by 14 May 2018 to indicate their potential intention to apply.

The Central Bank of Ireland has provided a set of FAQs on the Brexit issue:
https://www.centralbank.ie/regulation/how-we-regulate/brexit-faq

The funding of the FSCS - FCA 1 May 2018

The FCA has issued final rules and further consultation on reforming FSCS funding arrangements. This follows CP17/36 published in October 2017. This seeks to ensure the FSCS continues to provide the right protections, works effectively and is funded fairly. Following the feedback received the FCA has made final rules (to take effect in April 2019) to:

- merge the Life and Pensions and Investment Intermediation funding classes
- require product providers to contribute around 25% of the compensation costs which fall to the intermediation classes

- move pure protection intermediation from the Life and Pensions funding class to the General Insurance Distribution class

In addition, the compensation limit for investment provision, investment intermediation, home finance and debt management claims has been increased to £85,000 from April 2019.

The FCA is also consulting on draft rules to ensure that Personal Investment Firms should have PII policies that do not limit claims, where the policyholder or a third party is insolvent, or where a person other than the PIF (e.g. the FSCS) is entitled to make a claim. The changes are intended to ensure that more consumer claims are paid by insurers which could help to reduce the cost of the FSCS to other firms.

Latest FCA data show 3.76 million complaints - FCA 19 April 2018

During the second half of 2017 a total of 3.76 million complaints were received, an increase of 427,032 on the first half of the year. Complaints about PPI rose by 40% to 1.55 million, the highest level of complaints about PPI for more than four years. In January 2018 firms paid out £415.8m in redress to customers who complained about payment protection insurance (PPI). This is the highest figure since March 2016 and takes the amount paid since January 2011 to £30bn.

This FCA complaints publication covers only data from firms that report 500 or more complaints within the six month reporting period, or 1,000 or more for an annual reporting period. Excluding PPI the number of complaints received by firms was 2.21million, around 13,000 fewer than the previous six months.

Christopher Woolard, Executive Director of Strategy and Competition said: 'Having set a deadline for PPI complaints, we are encouraging consumers to decide whether they want to claim, and if they do, to make their complaint as soon as possible, as many already have. When PPI is taken out of the mix, the numbers of complaints firms are receiving has remained stable. Firms should be doing all they can to reduce complaints and ensure they are treating customers fairly.'

After PPI, the next most complained about products are current accounts, with 509,047 complaints and then credit cards with 314,586 complaints.

Further firm-level data are available on the FCA website: https://www.fca.org.uk/firms/complaints-data/firm-level