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Compli | August update

The summer has brought no let-up in regulatory activity, but, then again, is that surprising to those of us working in the world of regulatory risk and compliance? Recent developments span sanctions compliance, consumer claims, litigation funding, complaints handling and disciplinary enforcement. A common theme runs through them all: regulators are increasingly focused on governance, transparency and evidence of effective oversight.

Our advice is clear: if you've not yet been away, go and relax, switch off, refresh and know it will all be waiting for you when you get back, and if, like me, you've been away and that relaxed feeling disappeared when you logged back on, start planning your next break!

Sanctions compliance – UK and US regulators seek greater alignment

The UK's Office of Financial Sanctions Implementation (OFSI) and the US Office of Foreign Assets Control (OFAC) have published joint guidance comparing key aspects of the UK and US sanctions regimes. The guidance examines sanctions lists, licensing arrangements, record-keeping requirements and reporting obligations, with the aim of making compliance easier to understand and implement for businesses operating across jurisdictions.

The guidance reinforces the need to view sanctions compliance as an ongoing governance obligation rather than a standalone screening exercise. As sanctions regimes continue to evolve, periodic review of policies, training and reporting procedures will help ensure firms remain equipped to identify and respond appropriately to sanctions-related risks and obligations.

Consumer claims – scrutiny continues

The SRA's focus on the consumer claims market shows no sign of diminishing. Recent reporting highlighted findings from an SRA poll indicating that more than half of consumers reported experiencing problems when dealing with claims firms.

Against that backdrop, the SRA has launched a consultation on protecting consumers where solicitors and law firms use or arrange third-party litigation funding for consumer claims **SRA | Protecting consumers when solicitors and law firms use and/or arrange third-party litigation funding for consumer claims | Solicitors Regulation Authority** and sets out proposals to strengthen the regulatory obligations that apply in those circumstances.

Alongside that, the FCA issued a notice to request information from the claims management industry as part of its Claims Management Services Market Study (CMMS), following its publication in May of the **Terms of Reference** for the study, which sets out its scope and objectives. The study is examining how claims management services are supplied, including lead generation, and whether conduct and behaviours in the market may have adverse effects on the interests of consumers.

The latest developments suggest that regulatory expectations in this area are continuing to increase. Firms involved in high-volume consumer claims work may wish to consider whether funding arrangements, client communications and supervision arrangements would withstand closer scrutiny, particularly where clients may have limited understanding of funding structures, costs or available alternatives.

Car finance claims – uncertainty remains

The ongoing debate surrounding car finance redress has taken another turn with reports that the proposed FCA compensation scheme has been suspended and may face legal challenge from both claimant representatives and lenders.

While the outcome remains uncertain, significant consumer interest remains. Any changes to the proposed scheme could affect funding arrangements, case acquisition strategies and client expectations, meaning that firms active in this sector are likely to be monitoring developments closely as the position evolves.

Post Office Horizon – regulatory consequences continue

Regulatory scrutiny arising from the Post Office Horizon scandal remains active. The SRA has referred two solicitors to the SDT in relation to conduct that took place after the scandal. The developments illustrate how regulatory scrutiny can continue long after the events under investigation and how conduct connected to major public inquiries may remain subject to review for years afterwards. It also reinforces the importance of transparency, cooperation and accuracy when dealing with regulators, courts and public bodies.

Consultations

As we reported last month the SRA opened a consultation **Client money in legal services: Notifying the SRA of changes to help identify and act on risks** which closes for responses on 17 August, so you still have a little time to put forward your views.

In July the SRA opened two further consultations, the first relating to changing its requirements on first-tier complaints **SRA | Changing our requirements on first-tier complaints - supplementary consultation | Solicitors Regulation Authority** which ends on 1 September, and which seeks views on two new, targeted requirements on how solicitors and firms communicate with clients when a complaint is raised, namely, that clients are provided with a timeline for resolution of their complaint when a complaint is first notified and are given regular updates on the progress of their complaint; its intention to publish a Complaints Handling Requirements Statement, and the areas it plans to cover in its new complaints handling guidance.

The second consultation, referred to above, relates to third party funding for consumer claims which ends 17 September.

New/updated practice notes and guidance

SRA

SRA | Using or arranging Third-Party Litigation Funding | Solicitors Regulation Authority

SRA | Dealing with conflicts of interest, independence and confidentiality for in-house solicitors - Case studies | Solicitors Regulation Authority

Law Society

Solicitors Regulation Authority (SRA) powers of investigation | The Law Society

Handling complaints as a solicitor | The Law Society

Raising concerns and whistleblowing: guidance for staff | The Law Society

Implementing whistleblowing arrangements | The Law Society

Disciplinary decisions

Recent disciplinary decisions continue to reinforce familiar themes.

Fines for breaches of AML

Fines continue to be imposed on firms for breaches of MLR following AML desk-based reviews/investigations, with approximately 10 firms in July being fined, in total, over £100,000.

Chaotic practice leads to SDT ban

A sole practitioner was banned by the SDT after operating what was described as a chaotic practice, placing clients at risk and misleading insurers, having retained outstanding client balances on almost 700 matters, one going back to 1999, and telling insurers on his PI renewal form that the firm had not been subject to any investigations from the SRA. He was also ordered to pay over £45,000 costs.

Strike-off following deadline cover-up

A solicitor was struck off after missing a deadline and subsequently creating an explanation intended to conceal the error, which included creating and backdating correspondence to clients and deliberately misspelling an email address, which he then blamed on his secretary. In non-agreed mitigation, he said he was under pressure balancing family life, including a new baby, with his demanding professional role.

Prospective trainee banned

A senior paralegal who had been offered a training contract forged a client and their sponsor's signature on an immigration document sent to the Home Office, falsified a language test certificate in the client's name and faked an email to try and prevent her firm finding out about her mistakes. The individual had been barred from the profession, the SRA imposing a s43 order meaning she cannot work for a law firm without its permission.

Suspended for touching colleagues and racist remarks

A partner who inappropriately touched junior female colleagues and made antisemitic remarks was suspended for a year, the SDT ruling that while public confidence in the profession required that he be penalised, his conduct did not require him to be struck off. In mitigation it was said that the misconduct, while serious, did not involve clients, dishonesty or sustained exploitation and occurred within a limited period at social events.

How Compli can help...

The Compli Solicitor Regulatory and Professional Discipline Team can provide expertise and advice on risk and compliance, AML, disciplinary assistance etc. If we can help in any way, please get in touch at compli@weightmans.com

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