

Legal and regulatory newsletter - February 2020

Read our latest insurance newsletter for our clients and contacts across the financial services market with quarterly updates and insights on topical legal and regulatory issues.

17 February 2020

Welcome to the February issue of our Legal and Regulatory Newsletter.

If you have any queries on the issues covered or any feedback on the form or contents of the newsletter, please don't hesitate to get in touch – we would be delighted to hear from you.

'It all came out in the wash'

We consider how problems in one FS market might be seen to pose risks more broadly.

The Financial Conduct Authority's £15.4 million fine in October 2019 against Tullett Prebon ("TP") has ramifications for all financial services intermediation and distribution, not just the securities trading market.

[Read more](#)

Issues to consider in relation to third party funded claims

Third party litigation funding was historically precluded by the common law rules against champerty (paying another party's costs in return for share of the proceeds) and maintenance (improper support of litigation in which the supporter has no legitimate concern).

However, a number of statutory exemptions been introduced, and the courts have been increasingly willing to accept the validity of third party funding as a means of furthering access to justice.

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Financial Services - Duty of Care: Bill consumer protection or damp squib?

The Financial Services Duty of Care Bill (the "Bill") was introduced into the House of Lords in October 2019 and had its second reading on 9 January 2020.

Neither the terms of the Bill nor or commentary around it make its purpose clear.

The FCA's view is that the power set out in the Bill is neither necessary nor beneficial for the FCA to meet its statutory objective.

[Read more](#)

Is insurance the new banking? Part 4: facing up to behaviour and risk in the London Market

We have previously discussed the regulatory issues around Lloyd's' evidence of inappropriate personal behaviour including sexual discrimination and/or harassment, and alcohol and/or substance abuse.

We now turn to the ramifications of the evidence as to 'raising a concern' (ie whistleblowing) about such behaviour.

[Read more](#)

Good insurance business # 1 - Insurance Product Value and the duty to act in the best interests of customers: risks from intermediary remuneration

On 19 November 2019, the Financial Conduct Authority ("FCA") published "Finalised guidance" (FG19/5) for "insurance product manufacturers and distributors".

[Read more](#)

Good insurance business # 2 - 'Unhealthy roots' of London market culture

On 6 January 2020 the Financial Conduct Authority ("FCA") published a 'Dear CEO' letter directed in particular at "insurers...and... insurance intermediaries" about "the issue of non-financial misconduct, [which] continues to be prevalent..."

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Good insurance business #3 - Regulatory intelligence

The Financial Conduct Authority (FCA) has published a "Dear board of directors" letter to personal and commercial lines insurers.

The letter's terms, however, indicate that its messages were intended for the general insurance (GI) sector overall. In short, the FCA's view is that there are significant risks of harm to "consumers and markets" that both the GI market and individual firms need to address, by a step-change in their culture.

[Read more](#)

Insurance Annual Review 2019-2020

We've recently published our Insurance Annual Review 2019-2020. Providing you with a useful insight of key developments over the past 12 months, and preparing you for the challenges and opportunities in 2020 and beyond.

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Contact



Jeremy Irving

Partner

jeremy.irving@brownejacobson.com

+44 (0)20 7337 1010

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