

Date: 13 June 2007

Contract Certainty – Consolidated Code of Practice

As I believe you are all aware, over the last few months a working group of senior industry practitioners representing all aspects of the UK general insurance industry has been developing a consolidated Contract Certainty Code of Practice. This consolidation is part of the industry's ongoing commitment to embed contract certainty. It aims to incorporate the lessons learnt as the market has implemented contract certainty over the past 2 years; and meet commitments made to the FSA at the end of last year to create a single code covering the entire UK general insurance industry.

The new code:

- consolidates 11 subscription market and a number of non subscription market documents into 1, also replacing the existing FAQs by combining them into the guidance;
- modifies the definition to remove the inconsistency and confusion arising from the use of inception date as part of the old definition, removing the need for separate late placements guidance for the subscription market;
- brings the definition, principles and guidance into a consistent structure;
- creates principles that are, as far as possible, timeless. Reference to targets, service levels or specific processes has been removed from the principles;
- provides clarity on how organisations may choose to demonstrate performance (which can encompass 100% checking as well as sample audits and process controls);
- makes the code generic (i.e. removes London specific terminology) and hence applicable to the whole UK general insurance industry. It eliminates any discrepancies which had developed over the past two years between the subscription and non subscription Codes of Practice.
- deals with the actions required when the principles of contract certainty are not met. This provides a link between contract certainty and the legacy of un-issued contract documentation;
- defines the scope of contract certainty; and
- enables the ACII to provide consistent training and professional accreditation for the entire industry.

Status of the new code

The new code of practice retains its status as industry guidance and replaces all current guidance. The FSA acknowledges and welcomes this further market wide guidance on the practicalities of delivering contract certainty in the UK markets. In due course the FSA will consider giving formal recognition to this guidance as envisaged in the discussion paper "FSA Confirmation of Industry Guidance" (DP06/05)¹.

Central measurement requirements

The FSA has made it clear that contract certainty remains a regulatory priority. As a result we will continue to collate data centrally throughout 2007. Until further notice you should therefore continue to report contract certainty as you have been doing up until now.

Late Placements

The late placement guidance has been replaced and the definition of contract certainty modified to enable a late placement to be treated in the same way as any other placement. However, the FSA is concerned that circumstances remain where contract formation occurs post inception and believes the industry should continue to apply every effort to avoid this.

We would therefore like to draw attention to the need to be able to demonstrate the extent to which firms are entering into contracts later than inception, the circumstances leading to such occurrences and the actions taken to reduce the frequency.

Next steps

The consolidation is intended to minimise change and additional work. It has been designed to be compatible with the way firms have implemented contract certainty and has been subjected to wide consultation. We would encourage firms to familiarise themselves with the new code and to take the following steps:

- make an assessment of the impact of the new Code of Practice on existing systems and controls;
- support staff involved in the placing process in gaining an understanding of the new code and its implications; and
- be prepared to demonstrate that Contract Certainty systems and controls are in place and working.

Copies of the new Code of Practice are available from your Association, the Market Reform Programme Office or electronically via www.marketreform.co.uk.



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¹ http://www.fsa.gov.uk/pages/library/policy/dp/2006/06_05.shtml