UK Regulator Expects Insurers to be Flexible During COVID-19 Pandemic

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The UK’s Financial Conduct Authority ("FCA") warned the insurance market at the end of last week that it must be flexible with customers amidst the COVID-19 pandemic.

Home and car insurance

The FCA noted that many home and car insurance customers would be more vulnerable because of travel and work plans changing on account of government social distancing advice. It stated, “We would not expect to see their ability to claim impacted by circumstances over which they have little control“.

Travel insurance

For travel insurance, some customers will have reasonably been relying on a policy renewal of their existing policy to cover a trip that was booked before the spread of COVID-19 escalated. In those circumstances, the FCA said it would expect insurers to pay out under the terms of the existing policy, even if the claim would post-date the renewal date.

Policy renewals and changes

Insurers must ensure that any new products sold or any renewed policies meet the needs of their customers and the FCA expects firms to clearly communicate any policy exclusions.

Firms are also expected to consider whether it is appropriate to make any policy changes/exclusions at renewal. They must be able to demonstrate that they are treating customers fairly. Certainly, firms should carefully consider before withdrawing products due for renewal simply to reduce risk of claims.

Some firms may be considering whether to make mid-term changes to existing policies. The FCA provided a clear list of considerations before doing so, indicating the risk of attempting such changes:

- “Whether there is a written term in the contract that states they are able to make the change that they want to make.

- Are the terms that they intend to rely upon fair and transparent under the Consumer Rights Act 2015 (or the Unfair Terms in Consumer Contracts Regulations 1999 if appropriate)?

- Whether they are applying the term properly, in accordance with the contract (for example, by complying with any notice period set out in the contract).

- Whether due regard has been given to the interests of their customers and treating customers fairly (per FCA Principle 6). Also, to the information needs of their customers and communicating information in a way that is clear, fair and not misleading (per FCA Principle 7).

- Whether there is any other reason in law or any other relevant FCA rules, and whether they are complying with them.”

Business continuity

In order to manage and mitigate the operational impact of COVID-19, the FCA urged insurers to put careful plans in place. These include (i) having robust systems and controls to ensure business continuity; (ii) appointing dedicated Senior Managers to control the impact of COVID-19; (iii) acting in customers’ best interests; (iv) ensuring customer communications are clear, fair and not misleading; and (v) notifying the FCA of any gaps they identify in those plans that could harm their customers.
Comment

Firms should be taking this FCA guidance very seriously, particularly given the FCA has said it is prepared to delay or postpone other supervisory plans to concentrate on ensuring consumer and market protection during the COVID-19 pandemic. It is clear that the FCA’s attention is sharply focussed on these issues, the insurance market needs to tread carefully and pay close attention to the FCA’s pronouncements or else it will be storing up problems for the future.

Treating customers fairly has never been more important for firms.

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