THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES

DPBUPDATE

FOR FIRMS LICENSED IN THE DESIGNATED PROFESSIONAL BODY ARRANGEMENTS

Issue 4 April 2007

Welcome to Issue 4 of *DPB Update*.

The main article in this *DPB Update* is on changes to the *DPB Handbook*. These mainly flow from the regulation of home reversion and purchase plans, and pension schemes. However, we have taken the opportunity to make some other changes, following comments from members.

Another key article concerns changes to the certification process for high net worth individuals and sophisticated investors. These individuals can now self-certify their status. This means that a certificate is no longer needed from the individual's accountant. The advantage for firms is that, as you are not providing a certificate, you can now advise on an investment that is promoted to such individuals (provided your firm is suitably authorised or licensed).

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1 Changes to the Designated Professional Body Handbook

The *Designated Professional Body (DPB) Handbook* has been amended to reflect legislative changes regarding home reversion and purchase plans, and pension schemes. These changes are important as they affect the types of work which can be undertaken under a DPB licence.

We are also taking the opportunity to update the handbook in other areas.

The changes come into effect on 6 April 2007 and the revised version of the handbook can be seen at www.icaew.com/dpb.

Home reversion plans and home purchase plans

From 6 April 2007, the FSA will regulate home reversion plans and home purchase plans.

Home reversion plans are a type of equity release product, involving sale and lease arrangements. There are a range of home reversion plans. In many cases a home owner sells part (partial reversion) or all (full reversion) of their home at a discounted price, in return for a lump sum or payments over a period of time, with the right to remain in the house until they die or move into residential care. The purchaser of the home who provides the lump sum or payments is the 'plan provider' and is entitled to sell the property after the former owner dies or moves into care. The individual taking out the plan is known as the reversion seller.

Equity release products are generally aimed at older homeowners and are designed to enable them to benefit from the value of their homes without having to move out of them. Lifetime mortgages, another form of equity release, are already regulated under the mortgage regime.

A home purchase plan serves the same purpose as a mortgage; it provides consumers with finance for buying a home. Most are structured in a way that is acceptable under Islamic law. As interest is contrary to Islamic law, a home purchase plan is, in essence, a sale and lease arrangement.

There are two main types of home purchase plan: the 'Ijara' and the 'Diminishing Musharaka'. Ijara-based plans require banks to purchase the property identified by the eventual home owners who are, in turn, required to reside in the property as tenants over a fixed period of time. Rental payments are accompanied by 'on account' payments that accrue in a separate fund. At the end

of the tenancy agreement, the monies accumulated in this fund are used to purchase the property outright. With Diminishing Musharaka, monthly payments are made, similar to the Ijara plan, except 'on-account' payments are used to purchase additional equity in the property. This occurs during the term of the contract rather than having to wait until the end. When the final share in the property is purchased by the homebuyer, the house becomes the sole property of the homebuyer. The other method of buying a home which is acceptable under Islamic law is the Murabaha. This method of finance falls within the definition of a regulated mortgage contract, and is already regulated.

As home reversion plans and home purchase plans are dealt with in the legislation in a very similar manner to regulated mortgages, the new material has been introduced into the handbook mainly by the addition of new definitions. Thus, there are new definitions for home reversion plans and home purchase plans; a definition for related party (which is only used in other definitions); and a definition of regulated home finance plan. This is an omnibus term to refer to regulated mortgages, home reversion plans and home purchase plans as appropriate in the body of the handbook.

As with regulated mortgages, DPB firms can comment on advice and assist clients with mortgage applications but cannot recommend a specific regulated home finance plan.

The definitions are probably a key part of the changes and these follow, as included in the handbook. We have also included the definition of a regulated mortgage as a reminder.

Regulated home finance plan

- Regulated home purchase plan
- Regulated home reversion plan
- Regulated mortgage contract

Regulated home purchase plan

A home purchase plan is a regulated home purchase plan if, at the time it is entered into, the following apply:

a the plan is one under which a person (the 'home purchase provider') buys an interest or an undivided share of an interest in land (other than timeshare accommodation) in the United Kingdom;

b where an undivided share of an interest in land is bought, the interest is held on trust for the home purchase provider and the individual or trustees mentioned in paragraph (c) as beneficial tenants in common;

c the plan provides for the obligation of an individual or trustees (the 'home purchaser') to buy the interest of the home purchase provider over the course of, or at the end of, a specified period; and

d the home purchaser (if he is an individual) or an individual who is a beneficiary of the trust (if the home purchaser is a trustee), or a related person, is entitled under the arrangement to occupy at least 40% of the land in question as, or in connection with, a dwelling during that period, and intends to do so.

Note: a home purchase plan entered into before 6 April 2007 is not a regulated home purchase plan unless it is varied after that date to such an extent that a new plan is created to which the above criteria apply.

Regulated home reversion plan

A home reversion plan is a regulated home reversion plan if, at the time it is entered into, the following apply:

a the plan is one under which a person (the 'plan provider') buys all or part of an interest in land (other than timeshare accommodation) in the United Kingdom from an individual or trustee (the 'reversion seller');

b the reversion seller (if he is an individual) or an individual who is a beneficiary of the trust (if the reversion seller is a trustee), or a related person, is entitled under the plan to occupy at least 40% of the land in question as, or in connection with, a dwelling, and intends to do so; and

c the plan specifies one or more qualifying termination events, on the occurrence of which that entitlement to occupy will end.

A qualifying termination event means:

- the person becomes a resident of a care home;
- the person dies; or
- the end of a specified period of at least twenty years beginning with the day on which the reversion seller entered into the arrangement.

Note: a home reversion plan entered into before 6 April 2007 is not a regulated home reversion plan unless it is varied after that date to such an extent that a new plan is created to which the above criteria apply.

Regulated mortgage contract

A mortgage contract is a regulated mortgage contract if, at the time it is entered into, the following apply:

a the contract is one under which a person ('the lender') provides credit to an individual or to trustees ('the borrower');

b the contract provides for the obligation of the borrower to repay, to be secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom; and

c at least 40% of that land is used, or is intended to be used as, or in connection with, a dwelling by the borrower or (in the case of credit provided to trustees) by an individual who is a beneficiary of the trust or a related person.

Note: a mortgage contract entered into before 31 October 2004 is not a regulated mortgage contract unless it is varied after that date to such an extent that a new contract is created to which the above criteria apply.

The other main changes are to the following schedules:

- Part 3, schedule 1 – list of prohibited activities, what a DPB firm cannot do;

- Part 3, schedule 2, table 2D – guidance on regulated activities that may be provided by a DPB firm; and
- Part 3, schedule 7 – guidance on mortgage business activities, now renamed guidance on home finance business activities.

The new products and associated activities become regulated from 6 April 2007.

Home reversion plans and home purchase plans entered into before 6 April 2007 are not regulated. Any firm may administer such contracts provided the terms of the contract are not varied on or after 6 April 2007 to such an extent that a new contract is entered into which is a regulated home reversion plan or regulated home purchase plan.

The statutory instrument which introduced these changes is the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment)(No.2) Order 2006 (SI 2006/2383).

Personal pension schemes

Also from 6 April 2007, there will be a new investment: rights under a personal pension scheme. These will be regulated as 'securities'. This is in addition to the regulation of any underlying life assurance contract which is a 'qualifying contract of insurance' and forms the basis of many personal pension schemes.

A personal pension scheme now describes the vehicle in which the investment sits and includes Self-Invested Personal Pension schemes (SIPPs). A new definition of 'personal pension scheme' has been added to the handbook as follows:

Personal Pension Scheme

A scheme or arrangement which is not an occupational pension scheme or a stakeholder pension scheme and which is comprised in one or more instruments or agreements, having or capable of having effect so as to provide benefits to, or in respect of, people:

a on retirement;

b on having reached a particular age; or

c on termination of service in an employment.

'Rights under a personal pension scheme' are regulated as 'securities'. This is in addition to the regulation of any underlying life assurance contract which is a 'qualifying contract of insurance' and which forms the basis of many personal pension schemes.

However, 'rights under a personal pension scheme' is a wider concept. A personal pension scheme now describes the vehicle in which the investment sits and includes Self-Invested Personal Pension schemes (SIPPs). The rights include some or all of the rights to:

- make payments to the scheme;
- withdraw sums from the scheme in certain circumstances;
- transfer value to another scheme;
- place property into the scheme;
- receive benefits from the capital or income of the assets in the scheme;
- instruct the scheme operator on the assets to buy or sell for the scheme;
- instruct the scheme operator to switch funds;
- appoint a manager; and
- instruct the scheme operator to borrow money to purchase assets.

Other changes made to the handbook include:

- deletion of the reference to 'stakeholder';
- Part 3, schedule 1 – list of prohibited activities; and
- Part 3, schedule 2, table 2A – guidance on regulated activities that may be provided by a licensed firm.

As with the home reversion plans, etc. above, DPB firms can comment on advice but cannot make a recommendation that would affect a client's rights in a specific personal pension scheme. Thus, a firm cannot recommend a client to put a specific asset into a specific personal pension scheme but can comment on the advice given to the client by an FSA authorised person. However, it should be noted that these are 'personal' pension schemes. There is nothing to prevent a firm giving tax advice or advice about placing assets into a company pension scheme. As always, a firm should only give advice on matters in which it is competent.

The statutory instrument which introduced these changes is the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2006 (SI 2006/1969).

Corporate finance

We have taken the opportunity to add further examples to Part 3, schedule 5, which offers guidance on corporate finance activities. These have arisen out of queries received from members and are:

- advising on and arranging the formation of a company;
- providing a valuation of shares for a client;
- advising and assisting a company to issue shares;
- advising and arranging for a reorganisation of shareholding amongst family members, for no valuable consideration; and
- arranging the transaction for either party, and/or advising either party on the sale or purchase when a company sells 10% of its shares for a financial consideration.

Only the last activity is regulated, but a DPB licensed firm can advise.

Financial promotions

We have removed one of the suggested paragraphs for an engagement letter in Part 4, schedule 1 that relates to making an 'unsolicited real time' financial promotion to a client. The remaining paragraph deals with the issue. The deleted paragraph was duplication.

Other

A number of other amendments have been made.

- The transitional arrangements in the introduction have been amended.
- The list of key legislation in the introduction has been amended.
- Regulation 2.07d has been amended as the previous version could have been interpreted as only requiring notification if a principal changed his name, not if a new principal joined the firm.
- Schedule 1 of Part 3 now includes two further activities that DPB firms cannot undertake: the issue of electronic money and giving basic advice on stakeholder products (ie selecting which product to have).
- Example 7 of schedule 6 has been amended from 'any firm' to 'a licensed or an FSA authorised firm' to better reflect what is likely to happen in practice, as indicated in the 'is it regulated?' column.

We have not included details of all the changes to the handbook in this article. The revised version of the handbook, which incorporates all the changes, is published at **www.icaew.com/dpb**, together with a separate article that lists the individual changes.

2 Definition of a pure protection contract

The FSA is also proposing to amend the definition of a pure protection contract. The amendment will either increase the age condition to 80 (from 70) or remove the age and ten-year term condition in the definition.

The exact nature of the change will be announced by the FSA shortly.

The definition of a pure protection contract in the handbook will be amended in line with the FSA changes, and members should refer to the Institute's website in April for details of that change.

3 Financial promotions

This article will be of interest to firms that wish to contact selected clients to promote investment opportunities.

The Financial Services and Markets Act (FSMA) 2000 states that only a firm authorised by the Financial Services Authority (FSA) may issue or approve a 'financial promotion'. A financial promotion is widely defined as, 'an invitation or inducement to engage in investment activity, communicated by a person in the course of business'. There are exemptions within the Financial Promotions Order (FPO) which allow unauthorised firms (which includes DPB firms), to issue promotions in specific circumstances.

Changes to the FPO in respect of high net worth individuals and sophisticated investors make it easier for firms to promote an investment to these individuals as they can now self-certify their status. A certificate from a firm is no longer required. The other aspect of the change is that, because the firm no longer has to provide a certificate, it can now give advice in respect of the investment being promoted. Previously the firm that gave the certificate could not give advice.

When these changes were in draft, the ICAEW queried aspects of them with the Treasury and the FSA as we were of the view that they were not helpful to DPB licensed firms. Within the financial promotion material, there is often a reference to seeking independent financial advice. However, where the promoted investment is a private company share, a firm licensed under the DPB arrangements can advise. Following our representations, the ICAEW received agreement that reference can also be made in the promotion to a DPB firm as a suitable source of advice.

Articles 48, 50 and 50(A) of the FPO on high net worth individuals and sophisticated investors

Financial promotions made to high net worth individuals and sophisticated investors are subject to an FPO exemption. The exemptions for high net worth individuals (article 48) and sophisticated investors (article 50(A)) were designed to reflect the typical characteristics of business angels and other sources of informal capital for start-up and small companies.

Previous requirements

Previously, in respect of high net worth individuals, the exemption could only be used where the individual had a certificate of 'high net worth'. The certificate had to be signed by the individual's accountant or employer. Obtaining such a certificate was time consuming, costly and inconvenient and regarded as a barrier for potential investors. There was an added complication that, if a professional firm signed the certificate, it could not then use this exemption to make a financial promotion to that individual or give advice. Similar provisions applied to sophisticated investors, except that the certificate had to be signed by an FSA authorised person.

The ICAEW made a number of submissions to the Treasury on the difficulties that this exemption caused and commented on the draft amendments.

New requirements – general

The amended exemption for high net worth individuals only applies to 'non-real time' and 'solicited real time' communications. Non-real time communications are brochures, websites, letters and emails, etc. Solicited communications are where the recipient has initiated the communication; for example where the client requests information about a specific investment or asks to be kept informed about any future investment opportunities in unlisted companies. The recipient must, therefore, have stated that he or she wishes to receive such communications. (This restriction does not apply to sophisticated investors.)

Exemptions under articles 48 and 50A only apply to certain types of investment, principally:

- shares or stock in unlisted companies,
- collective investment schemes, where the underlying investment is in unlisted company shares or stock, or
- options, futures and contracts for differences which relate to unlisted shares or stock.

New requirements – high net worth individuals

Promotions for the specific types of investment mentioned above can be issued under the exemption where the firm believes, on reasonable grounds, that the person is a certified high net worth individual. This means any individual who has signed a certificate within the 12 months preceding the promotion.

A high net worth individual is one who:

- had, during the financial year immediately preceding the date of the certificate, an annual income of £100,000 or more; or
- held, throughout the same year, net assets of £250,000 or more.

Some assets may not be included, such as the residential home, a pension or the proceeds of life assurance contracts. The wording and layout of the certificate are highly prescribed. Interestingly, the FPO is silent about how the client gets a certificate! We assume that the process will involve a firm providing a client with a blank certificate which the client can sign if he or she thinks the above criteria apply.

The promotion that is made to the high net worth individual must be accompanied by a prescribed warning, which must be surrounded by a black border and given to the individual at the beginning of the communication. It must refer to its exempt status, again in a prescribed form, and outline the criteria which apply to high net worth individuals. Details are available in the FPO.

The promotion must also indicate that an individual who is in doubt about the investment being promoted should consult an authorised person specialising in investments of the kind in question. It was on this point that the ICAEW alerted the Treasury that it was not appropriate to restrict this referral to an authorised person, since a DPB licensed firm can advise on unlisted shares. We received confirmation that, in addition to the reference to seeking advice from an authorised person, which must be included, the promotion can add a comment that an individual could also seek advice from a DPB licensed firm.

While this is extremely useful, DPB licensed firms should remember that they can only generally offer advice (a regulated activity) on unlisted shares. Where a DPB licensed firm undertakes a regulated activity, this must arise out of, or be complementary to other professional services provided or to be provided to that client.

The exemption which applies to high net worth companies and unincorporated associations (Article 49) remains unaltered.

New requirements – sophisticated investors

Under the revised exemption for sophisticated investors (article 50(A)), promotions can be made under the exemption if the firm believes, on reasonable grounds, that the person is a certified sophisticated investor, ie one who has signed such a certificate within the 12 months preceding the promotion. The investments which can be promoted under this exemption are the same as for high net worth investors.

A sophisticated investor is someone who meets at least one of the following criteria:

- has been a member of a network or syndicate of business angels for at least the six months preceding the date of the certificate;
- has made more than one investment in an unlisted company in the two years preceding that date;
- has worked, in the two years preceding that date, in a professional capacity in the private equity sector, or in the provision of finance for small and medium enterprises; or
- has been, in the two years preceding that date, a director of a company with an annual turnover of at least £1 million.

The certificate is in a prescribed format, and the promotion must include warnings similar to those for a high net worth individual.

Basically, the exemption allows promotions about unlisted companies. For promotions to sophisticated investors about other investments, the previous exemption under Article 50 remains. This requires a certificate signed by an FSA authorised person.

General

For both high net worth and sophisticated investors, the firm must believe, on reasonable grounds, that the person is a certified individual. We suggest that an individual is asked to confirm that he or she has such a certificate before any financial promotion is made. This is not a legal requirement but seems a sensible precaution.

These arrangements simply mean that an unauthorised firm can make a financial promotion. However, as the requirement for a firm to sign a certificate has gone, the firm making the promotion can now give advice, provided that it is appropriately authorised or licensed under the DPB arrangements.

While the changes to the FPO are helpful to firms, familiarity with the requirements of the FPO is important. These can be found in the Financial Services and Markets Act 2000 (Financial Promotion) Order (Statutory Instrument 2005/1529, see **www.opsi.gov.uk/legislation**). You can view three further articles on financial promotions at **www.icaew.com/dpb**. Click on ‘publications’ and then ‘articles on financial promotions’. This article is a shorter version of the third article on the website.

4 Fees and commissions on insurance

This article considers the disclosures that you need to make to the client when your firm receives commission or fees for introducing, advising on, or arranging a contract of insurance.

The question of whether a firm requires FSA authorisation, a licence from a Designated Professional Body (DPB) or neither, is not covered in detail and you should refer to the *DPB Handbook* (www.icaew.com/dpb). This article does not address the requirements which apply to firms which are authorised by the Financial Services Authority.

The general rule in respect of commission is that, where it arises from a regulated activity, the licensed firm must account for commission in accordance with the *DPB Handbook* which states:

> **3.11 If a licensed firm receives commission (or other benefit) because of acting for or giving advice to a client, in the course of exempt regulated activities, the licensed firm must account for the commission (or other benefit) to the client in writing.**
>
> Accounting to the client means remitting the commission to the client or dealing with it on the client's instructions having informed the client that he or she has the right to require the licensed firm to remit the commission to him or her. If a client has indicated that the licensed firm may retain the commission or other benefit, the licensed firm must obtain the express written consent of the client. In securing the consent of the client, the client must also be clear as to the amount and frequency of the commission or benefit. Blanket disclosure within the terms of engagement is not sufficient to secure the informed consent of the client. Until the client's instructions are received, any commission should be dealt with in accordance with the Institute's Clients' Money Regulations.

If the commission does not arise from a regulated activity, it should be dealt with in accordance with section 240 of the *Code of Ethics*, 'Fees and other types of remuneration'. The *Code of Ethics* is part of the *Members' Handbook* (www.icaew.com/membershandbook).

The following are some of the key points to consider.

Commission

If an insurance policy is taken out by a client and the firm has:

- introduced the client to the insurer or insurance broker;
- given advice; and/or
- arranged the contract;

the firm may be remunerated by commission paid by the insurance company or broker. The client effectively pays this as part of the premium charged by the insurer to the client. This commission must be accounted for by the firm to the client in accordance with the *DPB Handbook*. Separate disclosure of the commission must therefore be made to the client.

Fees

Alternatively, the firm charges the client a fee which includes the premium for the insurance contract (ultimately payable to the insurance company) and an amount which the professional firm adds on to the premium and retains as a charge/fee. This is not commission.

Section 240 – 'Fees and other types of remuneration' in the *Code of Ethics* – is relevant here. In order to meet the terms of the *Code of Ethics*, firms should identify that the amount the client pays includes two elements. The amount of the professional firm's fee does not need to be shown separately (however, see below as to how this may affect Insurance Premium Tax). For example, the total amount payable could be described as the 'insurance premium and arrangement (or similar term) fee'. The client must be clear that an insurance contract is being arranged with an insurance company on its behalf.

If, as well as charging a fee, the firm receives commission, this should be dealt with in accordance with the *DPB Handbook*.

Insurance Premium Tax (IPT)

In both cases above, Insurance Premium Tax is payable. The following is an extract from the HM Revenue and Customs leaflet, *Introduction to Insurance Premium Tax* (ref IPT 1).

> 3.2.6 Intermediaries' fees for contracts liable to standard rate IPT
>
> Where an intermediary makes an additional charge in relation to an insurance contract that is taxable at the standard rate of IPT and this charge is made under a separate contract to the contract of insurance then, provided the existence of this separate contract and this separate amount is identified in writing to the insured, these charges are not liable to IPT.

Professional firms may not have a separate written contract for 'arranging' the insurance, nor may they wish to identify their charge separately. In such instances, IPT will be charged on the full amount that the client pays. IPT is generally remitted to the insurer and the insurer must account for IPT to HMRC. If there is any doubt concerning IPT payment, the firm should consult the insurer.

Some firms include within their normal letter of engagement, appropriate paragraphs relating to general insurance activities and this is sufficient to constitute a separate written contract. If a firm separately identified its arrangement fee, this would not then be subject to IPT.

VAT

In the main, there is no VAT on either the insurance premium *or* the fee in the above cases, as both are exempt. However where the professional firm:

- makes an introduction to an insurance broker or insurer,
- takes no further part in the process and
- does not give advice.

then any commission is subject to VAT.

This article does not provide full details concerning the tax and VAT position of insurance commissions and fees. Further guidance can be found in two tax notes issued by the Institute:

- Tax guide 01/02 – *Fees and commissions on insurance;* and
- Tax practice no. 8/2004 – *VAT and the professional fees of accountants* – paragraphs 47-56.

Copies are available from the website. For Tax guide 01/02 go to **www.icaew.co.uk/taxfac**, then click 'see all publications and technical guidance' then 'publications archive', then 'tax guidance notes' and finally click '2002' and 'February'. To view Tax practice no. 8/2004, also go to **www.icaew.co.uk/taxfac**, then 'see all publications and technical guidance' and click on 'taxline tax practice'.

Firms providing a service to a client in dealing with HMRC investigations

Schedule 8 of the *DPB Handbook* provides specific guidance on the different ways that firms can offer a service dealing with investigations. In example 5 of this schedule, the insurance contract is between the professional firm and the insurance company and *not* the client. (Reference should be made to this schedule for full details of how such an arrangement may work.)

The charge made to the client in this example is a service charge or fee and does not include an insurance premium as the client is not insured. The professional firm will pay IPT on the insurance contract with the insurer. The clients of the professional firm will be charged VAT on the fee for the service (dealing with HMRC enquiries) and not IPT.

5 Professional indemnity insurance – a reminder

Please remember that, for activities conducted by a DPB licensed firm that relate to insurance, you need PII equivalent to at least €1 million per claim and €1.5 million in total. This is not in addition to the PII already required. It is merely that, if necessary, you may need to increase the amount of your PII from that required by the PII regulations.

You may already have PII in excess of these limits which are set by the EU's Insurance Mediation Directive (IMD). If not, you may need to increase the sum insured. This would normally be achieved by increasing the total sum insured to the IMD limits or it may be possible to obtain an extension of cover just for IMD-type work. For example, you may have £500,000 of PII. Then, only in respect of claims relating to insurance mediation activities, you can increase the sum insured to the IMD limits. If necessary, you should discuss with your broker or insurer the need for any changes to the sum insured.

If the only insurance mediation activity undertaken is introducing (see item 3 on schedules 2B and 2C of Part 3 of the *DPB Handbook*) there is no need to consider this issue. The PII required under the Institute's PII requirements will be sufficient.

The notes to Part 2 of the *DPB Handbook* give more details.

6 Fee protection insurance

If you are providing fee protection insurance (FPI) to a client where you are recommending a specific policy (as per example 8 of schedule 8 of Part 3 of the *DPB Handbook*) please remember that you are responsible for the compliance matters set out in Part 4 of the handbook. These are:

- the need to tell the client how you selected the product (paragraph 4.16);
- taking steps to determine that the recommendation is suitable for the client (paragraph 4.17); and
- supplying a 'demands and needs' statement (paragraph 4.18).

The last item has to be provided when you make the recommendation to the client and not at some early stage of the selling/advice process. While the insurance firm or other intermediary that you are using for FPI can no doubt help you with this, it is down to you to make sure it all happens as it should.

What the insurer/intermediary will probably not remind you of is the need to have issued to the client an engagement letter that deals with the matters in paragraphs 4.03 (status disclosure), 4.07 (complaints procedures) and 4.10 (compensation arrangements). For the first and third items, there are example paragraphs in schedule 1 to Part 4 of the handbook.

7 Data Protection Act 1998 – a reminder

The Institute's Advisory Services have had several calls recently from practitioners who have received letters from the Information Commissioner's Office advising them that they need to register under the Data Protection Act 1998. You need to register every year; although once registered you should receive a reminder (and if you pay by direct debit they even take the cash for renewals!). The fee is £35 per annum. Beware of bogus communications offering to register you for an inflated fee.

The Institute has been in contact with the Information Commissioner's Office and they have confirmed that they consider that virtually all accountancy firms should be registered. While they will contact firms who fail to register, they will not be prosecuting, provided firms take action and register. However, firms that persistently fail to register will be prosecuted and the fine can be up to £5,000.

If you are in practice and your firm is not registered, do so now. For an initial notification form, visit **www.ico.gov.uk** or call 01625 545740.

For more information, please see Advisory Services Helpsheet *The Accountancy Profession and the Data Protection Act 1998* and an associated technical release, 7/04, *Data Protection Act 1998 and its application to the major practice streams of accountancy practices*. The helpsheet can be found at **www.icaew.com**; click on 'members', 'resources & support', 'Advisory helpsheets' and finally 'more helpsheets'. The technical release is also on the website, start with 'technical & business topics' then 'technical releases' and finally '2004'.

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If you have any suggestions for articles for future editions of *DPB Update*, please email these to **tracy.stanhope@icaew.com**.

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