
FINAL NOTICE

To: **Combined Insurance Company of America (“CICA”)**

FSA
Reference
Number: **202081**

Address: **Combined House
15 Wheatfield Way
Kingston upon Thames
Surrey
KT1 2PA**

Date: **16 December 2011**

1. ACTION

- 1.1. For the reasons given in this Notice, the Financial Services Authority (“the FSA”) hereby imposes a financial penalty of £2.8 million on CICA.
- 1.2. CICA agreed to settle at an early stage of the FSA's investigation and therefore qualified for a 30% (Stage 1) discount under the FSA's executive settlement procedures. Were it not for this discount, the FSA would have imposed a financial penalty of £4 million.

2. SUMMARY OF REASONS

2.1. The FSA has taken this action due to CICA's breaches of the following FSA Principles for Businesses:

- (1) Principle 3 (management and control); and
- (2) Principle 6 (customers' interests).

2.2. These breaches took place in the period between 1 April 2008 and 26 October 2010 (the "Relevant Period").

2.3. CICA's breaches were systemic and flow from CICA's failure during the Relevant Period fully to embed a culture which recognised the importance of treating customers fairly. This put customers at risk of receiving unsuitable advice and having their claims and complaints handled unfairly. CICA failed to put in place adequate controls and governance arrangements to mitigate these risks.

2.4. As a consequence of these widespread failings, the FSA is concerned that customers may have suffered financial detriment although it has not made any findings in this regard and has not made any findings of customers being sold unsuitable policies or suffering detriment. CICA has agreed to conduct, through an independent third party, a past business review to identify any customer detriment and to provide appropriate redress to any customers who suffered loss as a result of CICA's failings.

2.5. The FSA identified systemic failings across much of CICA's business, including in respect of the following:

- (1) Recruitment, training and competency: CICA did not put in place adequate systems and controls to ensure that its sales agents had the necessary skills and knowledge to provide its customers with suitable advice and as a consequence put customers at risk of being treated unfairly.
- (2) Sales processes: CICA failed to put in place adequate systems and controls to ensure that its customers were provided with suitable advice.

- (3) Remuneration and reward framework: CICA paid its sales agents on a commission only basis. Its reward framework focused on sales volumes with insufficient consideration of quality. CICA failed to put in place effective controls to manage the risk of poor customer outcomes.
- (4) Claims handling: CICA failed to put in place proper systems and controls to monitor its claim handling process to ensure that customers' claims were handled fairly.
- (5) Complaints handling: Some aspects of CICA's documented complaints handling procedures were inadequate. Further, CICA did not make effective use of management information and root cause analysis to improve customer outcomes.
- (6) Controls and governance: Throughout its business CICA failed to put in place proper and effective governance arrangements and controls to identify and manage the risk that its customers would be treated unfairly, and failed to take effective action when issues arose. There was insufficient discussion by senior management of the root causes of issues, and CICA failed to make effective use of customer feedback to identify issues and make improvements to its business and systems.

2.6. The FSA views CICA's failings as particularly serious in light of the following considerations:

- (1) The breaches revealed serious weaknesses in the management systems and internal controls across much of CICA's business.
- (2) CICA's failings placed all of its customers at risk of being treated unfairly, and presented a significant risk to the FSA's objective of securing protection for consumers.
- (3) Treating Customers Fairly ("TCF") has been a priority for the FSA since 2004 and it has stressed repeatedly the importance of regulated firms ensuring that they focus on TCF issues and that they are properly embedded in all parts of the business.

2.7. The FSA recognises the following factors which mitigate the seriousness of CICA's failings:

- (1) CICA had already begun to address some of the issues identified in this Final Notice during the Relevant Period. CICA took steps in 2010 to improve the training provided to its Representatives. CICA conducted a review of its governance arrangements, including appointing a new CEO in April 2010 and began work on developing a revised remuneration package and policy. CICA also reviewed its claims handling process in August 2010 and introduced a new claims ownership system to improve efficiency shortly afterwards. In September 2010, CICA also began to consider possible improvements to its recruitment process, working towards improving the quality of candidates.
- (2) CICA agreed to appoint an independent expert to review the business and to recommend changes to be made to its business processes, systems and controls.
- (3) In light of the FSA's concerns about its business CICA voluntarily agreed to vary its Part IV permissions on 6 September 2010 and again on 26 October 2010, pending a review of CICA's processes and controls. As a result, CICA has ceased writing new business (other than renewals or remedying lapses) and has ceased all recruitment activity.
- (4) CICA has agreed to conduct a past business review to provide redress to any customers who suffered loss as a result of its failings.
- (5) CICA has co-operated fully with the FSA throughout its investigation.

3. DEFINITIONS

3.1. The definitions below are used in this Final Notice.

"the Act" means the Financial Services and Markets Act 2000;

"CICA" means Combined Insurance Company of America;

"DANS" means Demands and Needs Statement;

"the FSA" means the Financial Services Authority;

“Relevant Insurance Products” means the following six products sold by CICA during the Relevant Period: Cashback Accident Plan; Accident Disability Plus Plan; Cancer Support Plan; Sickness Income Plan; Critical Five Plan and Sickness Hospitalisation Income Plan.

“MI” means management information;

“Principles” means the FSA’s Principles for Businesses;

“Relevant Period” means the period from 1 April 2008 to 26 October 2010;

“Representative” means a self-employed agent who sold CICA’s Relevant Insurance Products;

“TCF” means treating customers fairly; and

“VVOP” means voluntary variation of Part IV permission.

4. FACTS AND MATTERS

Nature of CICA’s business

- 4.1. CICA has been authorised by the FSA to sell insurance products since 14 January 2005 (when the FSA became responsible for the regulation of general insurance).
- 4.2. During the Relevant Period, CICA provided accident and sickness insurance products to retail customers. The findings in this Notice relate to CICA’s sale of the Relevant Insurance Products, which comprised two accident policies (the Cashback Accident Plan and the Accident Disability Plus Plan) and four types of healthcare policies (the Cancer Support Plan, the Sickness Income Plan, the Critical Five Plan and the Sickness Hospitalisation Income Plan). Sales of these products comprised the majority of new sales made by CICA throughout the Relevant Period, and these were the only insurance products sold by CICA from 3 September 2010.
- 4.3. CICA sold the Relevant Insurance Products via self-employed agents, who made sales on an advised basis. CICA’s target customers were self-employed individuals, small business owners and manual workers. These customers were unlikely to have considered purchasing accident and sickness insurance cover before. CICA has defined its target market by reference to a sole trader whose prolonged absence from his business through sickness or accident could jeopardise the performance or survival of the business.

- 4.4. In respect of the Relevant Insurance Products, during the Relevant Period CICA had 542,133 policyholders, sold 238,993 new policies and received £47 million in premiums in respect of these policies. CICA also received and paid out claims under these policies during the Relevant Period and continues to do so.

TCF

- 4.5. Since 2004 the FSA has published a considerable amount of material on the importance of TCF. The FSA's July 2006 publication "*Treating customers fairly – towards fair outcomes for consumers*" required firms to focus on delivering the FSA's six TCF consumer outcomes which include: "*Consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture*". The FSA set a deadline of March 2007 for all firms to implement TCF in a substantial part of their business.
- 4.6. In May 2007 the FSA detailed firms' progress against that deadline and warned that it would use its enforcement powers where firms failed to engage with TCF sufficiently. The FSA stated that it expected all regulated firms to be able to demonstrate that they were consistently treating their customers fairly by the end of December 2008.

CICA's regulatory history

- 4.7. In August 2006 the FSA conducted a risk assessment at CICA, and identified a number of concerns around CICA's compliance function, suitability of advice and its treatment of customers. The FSA communicated its concerns to CICA after this visit and put in place a Risk Mitigation Programme for CICA to address these issues.
- 4.8. In January 2008 the FSA conducted a visit to ascertain the extent to which CICA had embedded the FSA's TCF policy in its business. During this visit the FSA identified concerns around CICA's approach to TCF, and in particular its systems and controls in respect of its sales force and complaints handling process. The FSA shared its concerns with CICA, and issued a new Risk Mitigation Programme on 28 March 2008 to CICA to address these concerns.
- 4.9. The FSA monitored CICA's progress as CICA sought to address the issues in the Risk Mitigation Programme, including through a further supervisory visit in August 2008.

While the FSA acknowledged steps taken by CICA to remedy these issues it continued to have concerns about CICA's approach to TCF.

- 4.10. On 20 August 2010 the FSA issued CICA with a Requirement Notice under Section 166 of the Act requiring CICA to appoint a skilled person to review the adequacy and effectiveness of CICA's governance and controls framework and to make appropriate recommendations to ensure CICA's regulatory compliance and the fair treatment of customers.
- 4.11. In light of the FSA's concerns CICA voluntarily applied to vary its permission on 6 September 2010 by adding a number of requirements to its permission. These requirements included (but were not limited to) the following:
- (1) CICA was required to cease recruitment of all new Representatives until a third party was in place to oversee recruitment;
 - (2) CICA was required to allow a third party to review all complaints made against Representatives and to follow the third party's recommendation as to the appropriate disciplinary action to be taken; and
 - (3) all CICA's new sales would be checked and confirmed as compliant by a third party (distinct from the skilled person appointed under Section 166 of the Act).
- 4.12. In light of the initial data produced by the third party reviewing CICA's new sales, CICA applied for a further VVOP on 26 October 2010 to include a requirement that it would cease all regulated activities for which it has Part IV permission save for the administration of in-force policies and the renewal or reinstatement of certain policies. As a result, CICA has ceased writing new business (other than renewals or remedying lapses) and has ceased all recruitment activity.

Failure to embed a TCF culture within CICA

- 4.13. CICA failed throughout the Relevant Period to take reasonable care to organise and controls its affairs responsibly and effectively and with adequate risk management systems to ensure the fair treatment of its customers. The FSA identified systemic failings across much of CICA's business, including in respect of its:

- (1) recruitment of sales agents;
- (2) training and the competency of its sales agents;
- (3) sales processes;
- (4) remuneration framework;
- (5) claims handling;
- (6) handling of customers' complaints; and
- (7) controls and governance arrangements in place.

These failings are detailed below.

Recruitment, training and competency of sales agents

- 4.14. CICA sold the Relevant Insurance Products via self-employed agents, known as Representatives. The Representatives made sales on an advised basis throughout the Relevant Period, and marketed CICA's products in face-to-face meetings with potential customers.
- 4.15. From a customer's perspective Representatives were the face of CICA and they played a vital role in respect of CICA's treatment of its customers. Representatives often sold alone and as a consequence it was important that CICA's Representatives had the appropriate skills, knowledge and understanding of TCF values to ensure the delivery of fair outcomes to customers. CICA failed to put in place adequate recruitment and training procedures to ensure that its Representatives had the necessary skills and competencies to advise CICA's customers.

Recruitment procedures

- 4.16. CICA's recruitment procedures focused on the quantity of applications processed through the system rather than the quality of recruits. CICA's Area Representatives were encouraged to "...[s]eek to recruit more than you need – feed the machine". CICA had a selection process in place for the recruitment of Representatives

throughout the Relevant Period, but that process was not adequate to ensure that Representatives were suitable for their role. In particular:

- (1) There were no minimum qualification requirements for Representatives.
- (2) CICA did not employ effective selection techniques during the recruitment process to reflect the type of applications CICA received. For example, CICA did not use competency-based interviews to reflect the fact that applicants often had little or no experience of the role they applied for.
- (3) Candidates were not asked any TCF-relevant questions during interviews, apart from “*What do you think it takes to be a good salesperson?*”.
- (4) CICA did not document its risk appetite for accepting applicants with criminal convictions. CICA did not undertake criminal record checks of any of its applicants, but relied on each applicant’s self-declaration during the application process. The FSA is aware of at least one instance where an applicant declared that he had a criminal conviction but CICA did not ensure that the issue was investigated or followed up.
- (5) From a sample of files, CICA did not obtain employment references from its Representatives in 50% of cases. Where employment references were obtained, validation of the referee was not always recorded. Character references obtained did not always meet in house criteria but were still accepted.
- (6) CICA failed to put in place adequate controls to prevent Representatives from selling Relevant Insurance Products prior to the successful completion of references.

4.17. CICA’s Representative attrition rate was consistently around 200% per annum. A study of Representatives who left CICA between July 2009 and June 2010 showed that the average length of service of Representatives was only three months. This created a risk that Representatives would be inexperienced which may have impacted on the quality of customer outcomes. CICA was taking steps to address this issue

which included work in profiling prospective Representatives which began in September 2010.

Training for new recruits

- 4.18. Once recruited, each CICA Representative attended an induction course before providing advice and selling to CICA customers, followed by a thirteen-week period of on-the-job training.
- 4.19. The induction training provided by CICA focused on making sales and CICA did not put in place adequate systems and controls to ensure that its Representatives were competent to advise customers. In particular:
- (1) There was inadequate TCF assessment in the induction course. While Representatives were required to take a TCF test, this test had no pass mark and could not be failed.
 - (2) The formal examination to assess competence was poorly structured and did not have any mandatory questions or sections, so, for example, a candidate could fail all product questions and still pass.
 - (3) The standard of the examination to test Representatives' competence was too low, evidenced by the almost 100% pass rate.
 - (4) The induction training did not include a robust method to measure each Representative's ability to complete a DANS correctly (this key document was used by Representatives to record customers' requirements and the underlying reasons for the advice given to customers).
- 4.20. There were some examples of good practice in the design of the thirteen week on-the-job training programme. However, CICA failed to put in place effective controls to ensure that its Representatives did not sell without direct supervision before being assessed as competent. CICA's Training and Competency Scheme contained a requirement for Representatives to be assessed during on-the-job training by supervisors. However CICA did not monitor this requirement (although supervisors were trained on the requirements of the on-the-job training programme and were

expected to follow it). Any failure to complete this training was not reported to sales management or Compliance, and there is evidence that a proper assessment was not always completed.

Maintaining competence

4.21. CICA assessed the ongoing competence of its Representatives in three ways: an annual competency assessment carried out by its Field Audit team; an annual sales process assessment; and a requirement to achieve a minimum number of training points by attending training events. However, the systems and controls in place at CICA were insufficient to ensure Representatives' ongoing competence to perform their role, as detailed below:

- (1) Quality indicators were not included in the assessment criteria. Therefore a Representative could have a series of breaches and complaints against them and still be classed as competent.
- (2) First time pass rates on the Field Audit competency tests were very high, at around 98% in 2010. This suggests that the tests were not sufficiently difficult.
- (3) Representatives who failed elements of the sales process assessment were (in some instances) coached and then re-tested and passed on the same day.
- (4) There was no robust assessment of Representatives' competence to complete correctly a DANS.

Training and Competency Scheme

4.22. CICA failed to apportion clearly or effectively the overall responsibility for its training and competency procedures. CICA had a documented Training and Competency Scheme in place, however, it was only documented at a high level making it difficult to understand the full requirements of the Scheme and who was responsible for specific tasks.

Sales Process

- 4.23. The failings in this Notice relate to CICA's sales of the Relevant Insurance Products. Although these were relatively simple products, they did have some complexities. For example, they contain waiting periods, deferment periods, between six and nine different levels of cover, and three of the plans had indexation of benefits and premiums.
- 4.24. The policies were relatively low cost; the average premium per policy per year sold in 2010 was £216. However, many customers held multiple policies with CICA so their total premiums could be substantially higher. Indeed, the selling of additional policies to existing customers was a key aspect of CICA's business model.
- 4.25. CICA assessed its own customer base as not being as financially sophisticated as some sections of society and unlikely to have considered purchasing accident and sickness insurance before.
- 4.26. CICA documented the sales process to be followed by its Representatives in four handbooks. These sales documents referred to FSA regulatory requirements, and in particular the need to treat customers fairly. However, as explained below, CICA failed to implement adequate systems and controls to ensure that its customers would be treated fairly and would receive suitable advice.

Failure to obtain sufficient information to evidence the suitability of advice

- 4.27. Representatives marketed CICA's products as part of an advised sales process. Representatives manually recorded information about potential customers in a DANS, using this form to record customers' requirements and the underlying reasons for the advice given. The DANS, together with an Application Form, became part of the customer's policy documents.
- 4.28. The DANS had certain limitations which could have prevented Representatives from providing customers with suitable advice:
- (1) There was insufficient room on the DANS to record the full details of any policies which the customers held with other insurers. The DANS also did not

seek to record information about customers' savings, or any employer benefits to which the customer may have been entitled (where applicable). Any additional policies, savings or employer benefits should have been considered by Representatives before advising customers. Although they would not have invalidated any policy which the customer entered into with CICA, they would have been a relevant factor when assessing a customer's requirements and may have indicated that the customer had no need for additional insurance.

- (2) Additionally, the DANS did not record sufficient information to enable advisers to assess customers' ability to afford the product. The DANS contained a yes/no question asking whether the customer could afford the policy; in certain cases, this would not have been sufficient for an adviser to assess affordability issues. For healthcare policies, the DANS included an additional question recording income. In light of CICA's customer base, and its approach of selling multiple policies to customers, the affordability of products was likely to be a relevant piece of information in order to provide customers with suitable advice. Furthermore, the failure to record sufficient information around affordability issues meant that CICA could not monitor its Representatives' advice in this regard.

Failure to put in place adequate systems and controls for checking new business

- 4.29. CICA put in place a number of systems and controls to check new sales made by its Representatives. However, these controls were inadequate and did not place sufficient focus on checking whether customers had been treated fairly and provided with suitable advice. For example:

- (1) All completed DANS were checked by Representatives' managers (Area Representatives), however the checking process did not follow any established or consistent method.
- (2) Area Representatives also called customers chosen at random and asked a range of set questions. However they failed to ask all of the questions required to establish that customers had received suitable advice.

- (3) CICA's Compliance Enforcement Monitoring division reviewed completed DANS using an eight-point checklist and made follow-up calls to selected customers asking a standard set of questions. However, this checklist did not adequately cover affordability, eligibility or suitability issues.

Remuneration

- 4.30. CICA paid its Representatives on a commission-only basis, and offered bonuses and incentives as further rewards. The remuneration structure for the sales force was high risk as it was based on sales volumes, and placed insufficient emphasis on quality of sales or fair customer outcomes.

Commission

- 4.31. Commission was paid to Representatives on reported product sales. Commission rates varied between products and were generally higher for sales made to customers on a cold call basis than through a lead to reflect the additional effort undertaken by the Representative. For example, where Representatives sold a healthcare policy with a quarterly premium on a cold call basis, they would receive between 100% and 120% of that premium as commission and 2% of any renewal premiums. Where the sale was made through a lead, the Representative would receive 100% of the initial premium and 2% of any renewal premiums.
- 4.32. Commission was subject to claw back if a policy lapsed within the commission earn-out period. CICA did not undertake any root cause analysis of why policies lapsed or set quality targets, and therefore claw back was not a quality measure. Representatives would be entitled to full commission on sales regardless of any breaches or complaints against them.

Bonuses and incentives

- 4.33. The bonuses and incentives paid were also linked to business volumes. For example, Representatives could achieve a "Weekly Winners" bonus of between £150 and £400 per week depending on the volume of Cash Accident Plan products that they sold. The only quality measures in place in respect of bonuses were short-term persistency rates (for example, within the Healthcare division, bonuses would not be paid if over 15%

of customers cancelled their policies within the first three months). There was no link to other risk indicators such as complaints or breaches, other than the overall caveat that bonuses or incentives could be withheld if the Representative made sales “*contrary to the Company rules*”. Furthermore, certain of the bonus and incentive arrangements were set up in a way that could have promoted product bias.

Failure to put in place adequate controls around Representatives’ behaviour

- 4.34. The remuneration structures in place failed to mitigate the risk that Representatives would make inappropriate sales and behave in a way inconsistent with fair customer outcomes. CICA failed to mitigate this risk by putting in place adequate systems and controls around its remuneration structure, such as more robust quality measures.
- 4.35. Furthermore, CICA failed to take effective action against Representatives who were the subject of customer complaints or who were found to have breached company rules, despite the risk that these Representatives may have treated future customers unfairly, or provided future customers with unsuitable advice.
- 4.36. In accordance with the VVOP referred to in paragraph 4.11 above, CICA appointed an independent party to review CICA’s treatment of Representatives who had been the subject of a customer complaint and to advise on appropriate disciplinary action. In relation to approximately 38% of the Representatives reviewed, by either the independent party or by CICA itself, it was found that CICA had failed to take sufficiently robust action against the Representative at the time of the original complaint and termination of the Representative’s contract was recommended.
- 4.37. CICA did have in place a “*zero tolerance*” policy which outlined a number of offences which “*will result in termination of [the Representative’s contract]*”. These offences included theft, writing bogus policies, forging signatures, misdating cover and fraud. However CICA failed to enforce its zero tolerance policy consistently or effectively, although from Spring 2010 CICA did terminate some Representatives in accordance with the zero tolerance policy. In certain cases, despite documented evidence of both current and previous occurrences of issues equivalent to zero tolerance incidents, Representatives’ contracts were not terminated and CICA allowed the Representatives concerned to continue to sell to customers. For example, in one

instance a customer complained that a Representative knowingly recorded false health details on his application form. This amounts to a zero tolerance offence. However, despite the fact that CICA upheld the customer's complaint, it took no action against the Representative.

- 4.38. Finally, while CICA produced some MI to investigate issues with regard to Representatives' behaviour, and any breaches by or complaints against Representatives, the information produced contained no root cause analysis to understand the issues and did not contain enough information to enable CICA to identify trends or patterns.

Claims handling

- 4.39. CICA processed around 2,500 claims per month during the Relevant Period. Handling customers' claims was a key area of customer interaction for CICA.

Monitoring Claims

- 4.40. CICA put in place a new claims system in early 2010. While CICA did provide for some monitoring of its claims handling function, it failed to put in place adequate controls to monitor its handling of claims to ensure that customers' claims were handled fairly. This failure relates to the monitoring of all claims received by CICA in respect of Relevant Insurance Products as well as other insurance products previously sold by CICA. In particular:

- (1) CICA conducted a monthly peer review of a sample of claims to assess how each claim was handled. This review was limited in number, relevant claim handlers were only provided with oral feedback, and it is not clear that the findings of the peer review were properly fed back as part of claim handlers' performance management criteria. Furthermore, the results did not form part of any trend analysis.
- (2) There was no formal Compliance monitoring of the claims function to test the consistency of claims assessment and outcomes and no testing took place to ensure that the claims process was focused on achieving the right outcomes for customers.

- (3) CICA produced a number of MI reports relating to claims. These focused on volumes, number of claims closed per week and the amount paid out on claims. However, they placed insufficient emphasis on customer outcomes, quality of investigation, timelines for resolution or customer experience, and did not contain accurate information about the time taken to resolve all claims.
- (4) There were no systems in place to use claims data to identify issues or drive improvements within the business. Similarly, CICA did not perform any root cause analysis in relation to declined claims to establish or analyse trends.
- (5) CICA failed to follow up on all issues around the claims process that were identified in MI. For example, senior management were provided with an annual report in relation to claims in August 2010 which stated that 14% of claims files reviewed were not handled satisfactorily, but there was no follow up plan to remedy the issues. In addition, meeting minutes from the TCF Quality Committee in December 2008 identified life claims which had been outstanding for more than 20 years, yet this issue was still outstanding in April 2010.
- (6) CICA introduced a new claims handling system in 2010 and management was made aware that claims complaints figures were expected to increase as a result. However, there appears to have been no challenge from management to the decision to go ahead with that process, despite the fact that it was expected to affect customer outcomes.

Complaints handling

- 4.41. Complaints are an indicator of the areas of a business that are not operating satisfactorily for customers, and effective management of complaints is a key part of treating customers fairly. However, some aspects of CICA's documented complaints handling procedure, and the systems and controls it put in place regarding complaints handling, were inadequate. There is also evidence that CICA failed to identify and record all customers' expressions of dissatisfaction or complaints.

Concerns around documented complaints handling procedure

4.42. CICA's Complaints Procedure Manual documents its procedures for handling complaints. This Manual makes reference to meeting the FSA's TCF Outcomes, and appears to take the FSA's DISP Rules into account. However, the FSA has identified a number of concerns in respect of the documented complaints handling procedure which may have resulted in poor customer outcomes:

- (1) The Complaints Manual did not set out the requirement to provide complainants with a summary of the complaints procedure when acknowledging the complaint.
- (2) CICA's complaint handling policy did not set out any specific guidelines for establishing customer detriment or for calculating redress arising from failures of the sales process.
- (3) Where complaints were not resolved within 20 working days, Combined sent a letter to complainants. However, this was a pro forma holding letter and did not inform the customer of progress.
- (4) The Complaints Manual stated that where the Financial Ombudsman Service upheld a rejected complaint, CICA should pay 8% interest in addition to the claim settlement amount from the date that CICA received the information that would have allowed it to settle the claim. This did not reflect the actual position. In fact CICA might have been required to pay this additional 8% interest from the date the relevant policy was taken out.

Failure to implement proper controls over complaints handling process

4.43. CICA performed a quality assessment of all final response letters before they were sent and checked 20% of closed complaints on a monthly basis. CICA's Compliance department also reviewed 10% of closed complaints. However, the controls in place were subject to a number of limitations:

- (1) Before summer 2010, CICA did not date stamp complaints on receipt, which made it difficult to determine whether or not there had been a prompt

acknowledgment of the complaint. In addition, CICA's systems measured the period for resolution of a complaint from the date of acknowledgement, and not from the date that the complaint was dated or received.

- (2) CICA's quality checking of complaint letters focused on process rather than quality issues. Moreover, there is evidence that CICA took an inconsistent and unstructured approach to quality checking. For example, there were cases where CICA's Quality Assessor disagreed with the decision made by the case handler yet still awarded a high score and pass mark.
- (3) CICA's Compliance Manual provides that if a complaint is resolved by the end of the following business day, it should not be recorded as a complaint. While such complaints were not reportable to the FSA, they still fell within the FSA definition of a complaint. CICA's policy of not recording these complaints meant that they were not subject to the usual quality checks to ensure that customer outcomes were consistent with regulatory and company standards. These complaints should also have been subjected to root cause analysis.
- (4) There is no evidence that CICA used the findings of sample compliance reviews of closed complaints to influence or change complaint handling operations. The MI provided to the Board did not adequately show or explain numbers, trends, anomalies or issues. It focused on the cost of complaint handling, rather than any underlying analysis of customer outcomes. There was little discussion about CICA's complaint handling processes at Board level, and no evidence of interrogation or challenge.

Failure to use complaints data to identify systemic issues within CICA's business processes and to improve customer outcomes

- 4.44. Complaints can provide a rich source of customer feedback and an opportunity to identify how to improve performance. Effective and prompt analysis of the root causes of complaints, and a commitment to remedying such causes, can help to ensure fairer treatment of current and future customers.

- 4.45. CICA's Complaints Manual stated that the complaints policy included addressing the root cause of a complaint to prevent it from happening again. However, there is limited evidence to demonstrate that issues identified in the complaints process were used to identify potential issues within the sales, service or claims areas of the business. The MI provided to the Board in respect of complaints was volume based, with limited information on root cause analysis. For example, MI concerning complaints around the claims process did not consider whether these complaints indicated wider issues around the sales process, such as an initial failure by the sales agent to consider whether the customer was eligible to claim under the policy.

Controls and governance

- 4.46. As identified above, CICA's business practices gave rise to the risk that its customers would be treated unfairly. Putting in place adequate controls and robust governance arrangements (including MI) to manage this risk is a key part of a firm's risk framework and is important to the delivery of fair customer outcomes.
- 4.47. There is evidence that CICA recognised the importance of putting in place controls to ensure the fair treatment of its customers. For example, CICA's Compliance Strategy document described its overall aim as ensuring that CICA treats its customer fairly. The Board received MI which was intended to monitor the controls relating to the fair treatment of customers. The Board also established a TCF Quality Committee to understand and direct change in the business and recommend improvements to support delivery of fair customer outcomes.
- 4.48. However, the controls and governance arrangements put in place by CICA were inadequate to recognise and manage the risk of unfair customer outcomes. Particular concerns in relation to CICA's controls applicable to its sales process, zero tolerance policy and claims and complaints handling functions have been addressed above. The FSA has also identified the following more general issues with respect to CICA's controls to ensure the fair treatment of its customers.

The Committee set up to monitor TCF issues was not effective

- 4.49. The TCF Quality Committee set up by the Board was of limited value, focusing on customer satisfaction and mystery caller surveys rather than identifying issues relating to the delivery of fair customer outcomes. Moreover, there is no evidence that the Committee ever escalated any issues to the Board.

Failure to identify risks

- 4.50. CICA failed to identify and document all of the risks relevant to issues around treating customers fairly. CICA's Risk Register did not contain a risk that sales may be made in breach of regulatory requirements or may give rise to unfair customer outcomes, and did not identify any risks specific to the appropriateness of advice in the sales process.

Lack of robust MI and failure to act upon issues identified

- 4.51. CICA's MI on TCF issues was limited, and failed to provide sufficient root cause analysis to explain the underlying reasons for identified issues. Indeed, there appeared to be limited challenge from senior management of the root causes of the problems, and as a result any actions taken ran the risk of not addressing the issue itself.
- 4.52. Furthermore, CICA's MI was not sufficiently robust or accurate and some Board Members have stated that they did not have confidence in the underlying data.
- 4.53. Where MI identified issues suggesting that CICA might not be treating customers fairly, CICA did not always take appropriate action. For example (and as explained at paragraph 4.37 above), CICA failed to apply consistently and robustly its zero tolerance policy and as a result the concept of "zero tolerance" was diluted so that it became ineffective.

5. FAILINGS

- 5.1. The matters referred to in paragraphs 4.13 to 4.53 above constitute breaches of the FSA's Principles. The regulatory provisions relevant to this Final Notice are referred to in the Annex.

Breach of the Principles

5.2. For the reasons set out above, CICA breached:

- (1) Principle 3, in that it failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems. In particular, CICA failed to establish effective controls and governance arrangements to identify and manage the risk that its customers would be treated unfairly and that it would breach its regulatory obligations; and
- (2) Principle 6, in that it failed to pay due regard to the interests of its customers and treat them fairly. In particular, CICA failed fully to embed a culture which recognised the importance of treating customers fairly, evidenced by CICA's systemic TCF failings across much of its business. This resulted in the risk of customers being treated unfairly and being advised to purchase regulated products which were not suitable for their demands and needs. CICA failed to put in place adequate controls and governance arrangements to mitigate this risk.

6. SANCTION

- 6.1. Having regard to the issues above, the FSA considers it appropriate and proportionate in all the circumstances to take disciplinary action against CICA for its breaches of the Principles.
- 6.2. The FSA's policy on the imposition of financial penalties and public censures is set out in Chapter 7 of the Enforcement Guide ("EG") and Chapter 6 of the Decision Procedures and Penalties Manual ("DEPP"). With regard to DEPP, since the majority of CICA's failings occurred before the change in the regulatory provisions governing the determination of financial penalties on 6 March 2010, the FSA has applied the penalty regime set out in DEPP that was in place before 6 March 2010.
- 6.3. All references to DEPP below are references to the version in place prior to 6 March 2010. The relevant sections of DEPP are set out in more detail in the Annex.

- 6.4. In determining whether a financial penalty is appropriate, and if so its level, the FSA is required to consider all the relevant circumstances of a case. Applying the criteria set out in DEPP 6.2.1 and 6.4.2, the FSA has determined that a financial penalty in the amount of £4 million is an appropriate and proportionate sanction in this case.
- 6.5. DEPP 6.5.2G sets out a non-exhaustive list of criteria that may be of particular relevance in this regard. The FSA considers the following factors to be particularly relevant in this case.

Deterrence (DEPP 6.5.2(1))

- 6.6. The principal purpose of a financial penalty is to promote high standards of regulatory conduct by deterring firms that have breached regulatory requirements from committing further contraventions, helping to deter other firms from committing similar breaches, and demonstrating generally to firms the benefits of compliant behaviour.
- 6.7. The FSA views compliance with its TCF requirements as an issue of vital importance. The FSA considers that the imposition of a significant financial penalty on CICA is required, given the need to deter others from committing similar breaches and to encourage TCF compliant behaviour.

The nature, seriousness and impact of the breach in question (DEPP 6.5.2(2))

- 6.8. In determining the appropriate sanction, the FSA has had regard to the seriousness of CICA's breaches, including the nature of the breaches, the number and duration of the breaches, and the number of customers who were exposed to risk of loss. For the reasons set out at paragraph 2.6 above the FSA considers that the breaches identified in this case are of a serious nature.
- 6.9. The FSA accepts that CICA did take some steps to improve its processes. However, the FSA is concerned that CICA did not take sufficient steps to control or mitigate the risk, inherent within its business model, that its customers would not be treated fairly.

- 6.10. The FSA is also mindful that it has not made any findings of customer detriment, although the FSA is concerned that the failings identified in this Final Notice exposed customers to the risk of detriment.

The size, financial resources and other circumstances of the firm (DEPP 6.5.2(5))

- 6.11. In determining the level of the penalty the FSA has considered CICA's size and financial resources. There is no evidence to suggest that CICA cannot pay the financial penalty.

The amount of benefit gained or loss avoided (DEPP 6.5.2(6))

- 6.12. As a result of the breaches identified in this Final Notice, the FSA is concerned that CICA may have made unsuitable sales of policies. This would have resulted in a benefit for CICA and a potential loss for its customers.

Conduct following the breach (DEPP 6.5.2(8))

- 6.13. The FSA has taken the following issues into consideration when assessing the level of penalty to impose upon CICA:

- (1) CICA had already begun to address some of the issues identified in this Final Notice during the Relevant Period. CICA, at the FSA's request, appointed an independent expert to review the business and to recommend changes to be made to its business processes, systems and controls.
- (2) In light of the FSA's concerns about its business, CICA agreed to vary its Part IV permissions and cease conducting new regulated sales, pending a review of its processes and controls.
- (3) CICA has agreed to conduct a past business review through an independent third party to identify any customer detriment resulting from CICA's failings and to provide appropriate redress.

Disciplinary record and compliance history (DEPP 6.5.2(9))

- 6.14. CICA has not previously been subject to FSA action.

Other action taken by the FSA (DEPP 6.5.2(10))

- 6.15. In determining the level of financial penalty, the FSA has taken into account penalties imposed by the FSA on other authorised persons for similar behaviour.

FSA guidance and other published materials (DEPP 6.5.2(12))

- 6.16. In determining the appropriate level of financial penalty, the FSA has had regard to the fact that the FSA has published considerable material (in particular as described at paragraphs 4.5 to 4.6 above) in respect of treating customers fairly. This increases the seriousness with which the FSA has viewed CICA's breaches.

Conclusion

- 6.17. Having regard to the seriousness of the breaches and the risk these posed to the FSA's statutory objective of securing the appropriate degree of protection for customers, the FSA proposes to impose a financial penalty of £2.8 million on CICA.

7. PROCEDURAL MATTERS

Decision maker

- 7.1. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.
- 7.2. This Final Notice is given under, and in accordance with, section 390 of the Act.

Manner of and time for payment

- 7.3. The financial penalty must be paid in full by CICA to the FSA by no later than 30 December 2011, 14 days from the date of the Final Notice.

If the financial penalty is not paid

- 7.4. If all or any of the financial penalty is outstanding on 31 December 2011, the FSA may recover the outstanding amount as a debt owed by CICA and due to the FSA.

Publicity

- 7.5. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Notice relates. Under those provisions, the FSA must publish such information about the matter to which this Notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.
- 7.6. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

- 7.7. For more information concerning this matter generally, contact Anthony Monaghan (direct line: 020 7066 6772 / fax 020 7066 6773) of the Enforcement and Financial Crime Division of the FSA.

Georgina Philippou

FSA Enforcement and Financial Crime Division

ANNEX

STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

1. STATUTORY PROVISIONS

- 1.1. The FSA's statutory objectives are set out in section 2(2) of the Act and include the protection of consumers.
- 1.2. Section 206 of FSMA states:

“If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act, it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate.”
- 1.3. The procedures to be followed in relation to the imposition of a financial penalty are set out in sections 207 and 208 of the Act.
- 1.4. CICA is an authorised person for the purposes of section 206 of the Act. The requirements imposed on authorised persons include those set out in the FSA's Principles and Rules made under section 138 of the Act. Section 138 provides that the FSA may make such rules applying to authorised persons as appear to be necessary or expedient for the purposes of protecting the interests of consumers.

2. REGULATORY PROVISIONS

- 2.1. In exercising its power to impose a financial penalty, the FSA has had regard to the relevant regulatory provisions and policy published in the FSA Handbook. The main provisions that the FSA considers relevant to this case are set out below.
- 2.2. Under the FSA's rule-making powers, the FSA has published in the FSA Handbook the Principles which apply either in whole, or in part, to all authorised persons.

Principles

- 2.3. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and reflect the FSA's regulatory objectives. A firm may be liable to disciplinary sanction where it is in breach of the Principles.
- 2.4. The Principles relevant to this case are:

Principle 3 (Management and control) which states that:

“A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems”; and

Principle 6 (Customers' interest) which states that:

“A firm must pay due regard to the interests of its customers and treat them fairly”.

3. Decision Procedure and Penalties Manual (“DEPP”)

- 3.1. The FSA's policy in relation the imposition and amount of penalties that applied during the majority of the Relevant Period was set out in Chapter 6 of DEPP and was in force between 28 August 2007 and 6 March 2010.

Decision Procedure

- 3.2. DEPP 6.1.2G provides that the principal purpose of imposing a financial penalty is to promote high standards of regulatory and/or market conduct by deterring persons who have committed breaches from committing further breaches, helping to deter other persons from committing similar breaches, and demonstrating generally the benefits of compliant behaviour. Financial penalties are therefore tools that the FSA may employ to help it to achieve its regulatory objectives.
- 3.3. DEPP 6.5.1G(1) provides that the FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty (if any) that is appropriate and in proportion to the breach concerned.
- 3.4. DEPP 6.5.2G sets out a non-exhaustive list of factors that may be relevant to determining the appropriate level of financial penalty to be imposed on a person under the Act. The following factors are relevant to this case:

Deterrence: DEPP 6.5.2G(1)

- 3.5. When determining the appropriate level of financial penalty, the FSA will have regard to the principal purpose for which it imposes sanctions, namely to promote high standards of regulatory and/or market conduct by deterring persons who have committed breaches from committing further breaches and helping to deter other persons from committing similar breaches, as well as demonstrating generally the benefits of compliant business.

The nature, seriousness and impact of the breach in question: DEPP 6.5.2G(2)

- 3.6. The FSA will consider the seriousness of the breach in relation to the nature of the rule, requirement or provision breached, which can include considerations such as the duration and frequency of the breach, whether the breach revealed serious or systemic weaknesses in the person's procedures or of the management systems or internal controls relating to all or part of a person's business and the loss or risk of loss caused to consumers, investors or other market users.

The size, financial resources and other circumstances of the person on whom the penalty is to be imposed: DEPP 6.5.2G(5)

- 3.7. The degree of seriousness of a breach may be linked to the size of the firm. For example, a systemic failure in a large firm could damage or threaten to damage a much larger number of consumers or investors than would be the case with a small firm: breaches in firms with a high volume of business over a protracted period may be more serious than breaches over similar periods in firms with a smaller volume of business.
- 3.8. In addition, the size and resources of a person may also be relevant in relation to mitigation, in particular what steps the person took after the breach had been

identified; the FSA will take into account what it is reasonable to expect from a person in relation to its size and resources, and factors such as what proportion of a person's resources were used to resolve a problem.

The amount of benefit gained or loss avoided: DEPP 6.5.2G(6)

- 3.9. The FSA may have regard to the amount of benefit gained or loss avoided as the result of the breach, for example the FSA will impose a penalty that is consistent with the principle that a person should not benefit from the breach, and the penalty should also act as an incentive to the person (and others) to comply with regulatory standards and required standards of market conduct.

Conduct following the breach: DEPP 6.5.2G(8)

- 3.10. The FSA may take into account the degree of co-operation the person showed during the investigation of the breach by the FSA any remedial steps taken since the breach was identified, including whether these were taken on the person's own initiative or that of the FSA, for example, identifying whether consumers or investors or other market users suffered loss and compensating them where they have and taking steps to ensure that similar problems cannot arise in the future.

Disciplinary record and compliance history: DEPP 6.5.2G(9)

- 3.11. The FSA may take the previous disciplinary record and general compliance history of the person into account.

Other action taken by the FSA (or a previous regulator): DEPP 6.5.2G(10)

- 3.12. The FSA seeks to apply a consistent approach to determining the appropriate level of penalty. The FSA may take into account previous decisions made in relation to similar misconduct.

FSA guidance and other published materials: DEPP 6.5.2G(12)

- 3.13. A person does not commit a breach by not following FSA guidance or other published examples of compliant behaviour. However, where a breach has otherwise been established, the fact that guidance or other published materials had raised relevant concerns may inform the seriousness with which the breach is to be regarded by the FSA when determining the level of penalty.