Financial Services Authority

FINAL NOTICE

To: **Egg Banking plc**

Of: **Citigroup Centre**
Canada Square
London
E14 5LB

Date: **9 December 2008**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") gives you final notice about a requirement to pay a financial penalty.

1. ACTION

1.1. The FSA gave Egg Banking plc (Egg) a Decision Notice on 5 December 2008, which notified the firm that pursuant to section 206 of the Financial Services and Markets Act 2000 (the Act), the FSA had decided to impose a financial penalty of £721,000 on Egg. This penalty is in respect of breaches of Principles 3 and 6 of the FSA's Principles for Businesses and a related rule between 14 January 2005 and 17 December 2007 (the Relevant Period) in relation to non-advised telephone sales of credit card payment protection insurance (PPI).

1.2. Egg has confirmed that it will not be referring the matter to the Financial Services and Markets Tribunal.

1.3. Accordingly, for the reasons set out below and having agreed with Egg the facts and matters relied on, the FSA imposes a financial penalty on Egg in the amount of £721,000.

1.4. Egg agreed to settle at an early stage of the FSA's investigation. It therefore qualified for a 30% (stage 1) reduction in penalty, pursuant to the FSA's executive settlement procedures. Were it not for this discount, the FSA would have imposed a financial penalty of £1,030,000 on Egg.

2. REASONS FOR THE ACTION

2.1. The FSA has imposed a financial penalty on Egg for breaches of the FSA's Principles for Businesses (the Principles) and a related rule in relation to its telephone sales of credit card PPI.

2.2. These breaches, which are described in more detail in sections 4 and 5 below, relate to Egg's failure:

(1) to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems (Principle 3); and

(2) to pay due regard to the interests of its customers and treat them fairly (Principle 6).

2.3. The following breaches have been identified:

(1) Egg failed to take reasonable care to establish and maintain a sales process which ensured that customers were treated fairly;

(2) approximately 40% of Egg's telephone sales of credit card PPI failed to comply with the Principles for one or more of the following reasons:

(a) failing to obtain clear consent to the purchase of the policy;

(b) failing to obtain clear and explicit consent from the customer to proceed with the sale on the basis of limited information only;

(c) inappropriate handling of customers' objections to purchasing PPI, over-emphasising customers' ability to cancel the policy in the initial free period, and in some cases putting undue pressure on customers to purchase PPI; and

(d) failing to give adequate responses to customers' queries on the price of, or exclusions applicable to, PPI policies, and in some cases providing information that was inaccurate;

(3) Egg failed to establish and maintain adequate monitoring procedures, failed to ensure that all relevant management information was escalated to enable the firm to identify problems with the sale of credit card PPI in a timely manner, and did not take effective action to improve its sales processes as a result of information which was escalated.

2.4. During the Relevant Period Egg sold over 106,000 credit card PPI policies at an average cost to each customer of approximately £156, earning Egg gross premium income of approximately £16.7 million. Egg's failures therefore created an unacceptable risk of it treating a substantial number of customers unfairly when selling them PPI policies. Egg's failures continued for almost three years.

2.5. Egg's breaches are viewed as particularly serious as:

(1) the problems in Egg's sales process were identified by the FSA, and not by Egg's own systems and procedures;

(2) since September 2006 the FSA has published a number of Final Notices highlighting PPI failings. In particular, in January 2007 the FSA published a Final Notice in relation to store and credit card PPI which included failings similar to those found to be present with Egg's credit card PPI; and

(3) the failings arose against the background of a series of high profile communications by the FSA highlighting the need for firms to ensure that their PPI sales processes were meeting FSA requirements.

2.6. Egg's failures therefore merit the imposition of a substantial financial penalty. In deciding upon the level of disciplinary sanction, the FSA recognises the following measures taken by Egg which mitigate the seriousness of its failings:

(1) Shortly after the commencement of the FSA's investigation, Egg voluntarily suspended all telephone sales of credit card PPI pending its outcome.

(2) From 1 May 2007 onwards, when Egg was acquired by Citibank NA, the firm was taking proactive steps to improve its compliance with its regulatory obligations, for example meetings between monitoring staff and compliance were formalised, compliance sign-off of bonus schemes was implemented, new call monitoring and appraisal forms were introduced and RAG (red, amber, green) ratings were introduced in call monitoring to assess risk.

(3) Egg and its senior management worked in an open and entirely cooperative way with the FSA from the outset of the investigation through to settlement of the case.

(4) Effective from January 2008 and by agreement with the FSA, Egg engaged a third party to assist Egg in carrying out an internal investigation. The investigation was conducted in open and constructive manner, with results being shared with the FSA. The FSA was able to place complete reliance on the results of the internal investigation in dealing with this matter.

(5) Egg has agreed with the FSA to carry out an independently supervised customer contact and redress exercise as follows:

(a) All customers who were sold Egg credit card PPI policies by telephone during the Relevant Period will be contacted, save those who have already received a full refund, and those who cancelled the policy without ever paying a premium.

(b) The initial customer contact will be by letter, the forms of which have been agreed with the FSA and are attached to this notice as Annex B.

The letter will give a telephone number for customers to call if they require further information or have any concerns about the policy or the way it was sold to them. Egg has agreed to pay redress to customers where appropriate.

(c) Any refund will consist of the return of all premiums paid plus a payment of interest on each premium. Egg is likely to have to pay about £1.67 million in redress for every 10% of customers who receive such a refund.

(d) The design and implementation of the exercise will be supervised by a firm of accountants, who will provide an independent quality assurance report to the FSA.

(e) Egg will report to the FSA on the outcome of the exercise, including the number of customers contacted, the number of customers who received some form of redress, and the total amount of refunds paid.

2.7. The FSA considers that the remedial action committed to by Egg and the proposal to conduct a customer contact exercise and to pay compensation are significant steps in demonstrating the firm's commitment to treating customers fairly. These are particularly important mitigating factors which, along with all other relevant factors, the FSA has taken into account in making its decision on the level of penalty.

2.8. In addition, in deciding on the level of penalty the FSA has had regard to the nature of the insurance being sold and the likely financial impact on the customer – in particular the fact that this was regular premium PPI which cost on average £156 per customer. For most consumers this type of insurance will not be as significant a transaction as some other types of PPI.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

3.1. The FSA's statutory objectives, set out in section 2(2) of the Act, are market confidence, public awareness, the protection of consumers and the reduction of financial crime.

3.2. Section 206 of the Act provides:

"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 an amount as it considers appropriate."

Principles for Businesses

3.3. The FSA's Principles are a general statement of the fundamental obligations of firms under the regulatory system. They derive their authority from the FSA's rule-making powers as set out in the Act and reflect the FSA's regulatory objectives.

3.4. Principle 3 (management and control) states that:

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

3.5. Principle 6 (customers' interests) states that:

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

Rules and guidance

3.6. Relevant FSA rules and guidance are set out in Annex A to this Notice.

3.7. Details of the FSA's policy on imposing financial penalties are also set out in Annex A to this notice.

FSA communications regarding PPI during the Relevant Period

3.8. During the Relevant Period, the FSA communicated to firms the importance of having in place robust systems and controls and treating customers fairly when selling PPI and has highlighted various areas where firms are not complying with the FSA's requirements. These concerns have been expressed in reports published by the FSA, individual feedback to firms, a Dear CEO letter and FSA enforcement actions.

3.9. In November 2005, the FSA published on its website the results of the first phase of its thematic work on PPI, highlighting a number of key areas where firms were not treating their customers fairly. This report identified, amongst other things, that the majority of firms selling by telephone were not giving the customer sufficient information on exclusions. The FSA also wrote a Dear CEO letter to the industry outlining the findings of the thematic project and highlighting a number of key areas where firms were not treating their customers fairly.

3.10. The FSA reported on a second phase of PPI thematic work in October 2006. The FSA highlighted in its report some key areas of widespread concern, including that many firms were still not giving customers clear information during the sales conversation.

4. FACTS AND MATTERS RELIED ON

Background

4.1. Egg is an online bank offering borrowing, saving and insurance services and products. It offers PPI in relation to credit cards issued by Egg (the latter being described as Card Repayment Protection or CRP). Sales of PPI are made through Egg's website and through telephone sales, both inbound and outbound. The FSA's investigation related only to telephone sales of credit card PPI, and save where otherwise stated all references to PPI in this notice are to such sales. Customers did not contact Egg in order to buy PPI. PPI was sold either when Egg received an inbound customer services call, or when Egg made an outbound sales call to a new customer.

4.2. Egg has been authorised by the FSA in respect of a number of regulated functions since 1 December 2001. It has been authorised to arrange non-investment insurance contracts since 14 January 2005. Citibank NA acquired Egg on 1 May 2007. Egg sold over 106,000 PPI policies during the Relevant Period consisting of 66,696 sales in 2005, 35,583 sales in 2006 and 3,267 in 2007.

4.3. Each policy cost the customer 79p per £100 of the customer's credit card balance each month, the cost being added to the balance. Egg received total gross premium income of approximately £16.7 million from those policies during the Relevant Period.

4.4. Subject to certain exclusions and limitations, the PPI policy insured against unemployment, accident and sickness, serious illness and death. In the event of serious illness or death the policy cleared the outstanding balance or the credit limit, whichever was lower. In the case of unemployment, accident or sickness, if a customer was unable to work for at least 30 consecutive days the customer would receive 10% of the outstanding balance each month up to a maximum 12 monthly payments.

4.5. No premium was charged for the first month of cover, although the ability to make a claim within this period was limited. The customer had the right to cancel the policy free of charge within the first 30 days. Thereafter the customer could cancel the policy on giving 30 days' notice.

4.6. The FSA visited Egg as part of its treating customers fairly (TCF) programme and identified a number of concerns relating to the firm's sale of PPI which led to the FSA's investigation.

Egg sales process

4.7. Egg used a scripted sales process for its telephone sales staff. Many of the scripts asked ambiguous or 'rolled-up' questions in relation to customer consent to the contract and customer consent to proceed with a sale based on limited information. For example one script included the line: "*I can provide some limited information about this product now and send out full details if you wanted to go ahead with the policy, is this OK?"*. It is not clear whether the question "*is this OK?*" refers to receiving further information in the post or going ahead with the sales conversation on the basis of limited information or consenting to take the PPI. Other scripts used by Egg omitted the question about consent to proceed on the basis of limited information.

4.8. Egg used a non-advised sales process when offering PPI to its credit card customers. In a non-advised process, the firm should provide information about the PPI on offer, but it should not recommend the product.

Sales calls

4.9. As part of the investigation over 300 recordings of telephone calls that resulted in the sale of a PPI policy were reviewed. As a result the FSA has made the findings set out below.

Failure to obtain consent to the start of cover

4.10. No firm should apply PPI to an account without the explicit consent of the customer. In almost all cases the call handler asked the customer for consent to the start of cover. However, in 6% of calls reviewed, the customer did not give consent to the start of cover. For example, in one call, following several objections from the customer, the salesperson said "*I'll just send you the paperwork*" to which the customer responded "*ok*". This was a clear example of failure to obtain consent to the PPI cover.

4.11. In a further 9% of calls the call handler failed to obtain a clear consent from the customer. This occurred where the sales staff asked ambiguous or rolled-up questions such as combining the two questions: "*can I begin your cover?*" "*and get some details out to you?*" In such circumstances it was not clear whether the customer was agreeing to receive further details in the post or was consenting to buy PPI cover.

Failure to obtain explicit consent to proceed on limited information

4.12. It is a requirement of every insurance sale carried out over the telephone for the salesperson either to provide full information (including the full terms and conditions of the policy) before the contract is concluded, or to obtain the customer's explicit consent to receiving only limited information. It would be impracticable, for most insurance policies, to provide full information by telephone, so if the sale is to be concluded by telephone it is essential that the firm obtain explicit consent to proceed on the basis of limited information only.

4.13. As stated above, at various times during the Relevant Period the sales scripts used by Egg did not require the sales staff to seek to obtain explicit consent to proceed on limited information. Many of the scripts used ambiguous or rolled-up questions, and on other occasions staff deviated from the script and failed to seek explicit consent to proceed on the basis of limited information. A combination of flawed scripts and operational failures resulted in 38% of sales in which the firm did not obtain clear and explicit consent to proceed on the basis of limited information.

Inappropriate 'objection handling'

4.14. Egg chose to follow a non-advised sales process, the basis of which is that the firm should provide information to the customer without recommending the product. Despite this, when Egg customers raised objections to buying PPI, the firm directed its sales staff to "handle" those objections by questioning why an objection was being made, by pointing out positive features of the PPI, or by emphasising the ability of the customer to cancel the product after buying it. The purpose of this objection handling was to persuade the customer to change their mind. Some examples are set out below: such objection handling has no place in a non-advised sales process. Repeated objection handling, even where the information provided is accurate, can result in undue pressure on the customer to buy the product.

4.15. Objection handling techniques were used in more than half of Egg sales. On 22% of the sales reviewed, objection handling techniques were used at least twice during the call, before going on to make the sale. On 19% of the calls the customer was told that they could consider the cover during the 'free period' and cancel in that period if they decided against having PPI. In 28% of the calls reviewed sales staff mentioned the 'free period' or cancellation period in response to an objection.

4.16. Examples of inappropriate objection handling included the following:

(1) The customer stated several times during the phone call that they did not want the cover as they would have no use for it, even at one point saying "*I'm going to insist, I really don't need it, I just don't need this insurance at all*". In response to the objections the salesperson either stated that the cover would be free if there was a zero statement balance, or ignored the objection and continued to read the script.

(2) The customer stated three times that they wanted time to think about whether to take the cover and each time the salesperson continued to give the customer information about the policy. The salesperson then asked the customer "*do you want me to go ahead and send those [the policy details] out to you and begin that for you then?*" The customer responded "hmmm" and it is therefore not clear if the customer was consenting to receiving the information or to taking the cover.

Inadequate responses to customer queries

4.17. Where the customer had a query about the price or exclusions of the contract, the salesperson gave an inadequate response in 28% of cases (33 out of the 117 sample calls in which queries were raised). In a few cases, the information provided in response was not merely inadequate but was inaccurate, for example:

(1) the customer queried the exclusion for back pain as he had a slipped disc and was currently receiving treatment. The call handler stated that the customer would still be covered for the condition if he could provide medical evidence. This was inaccurate as the customer would be unable to claim for any medical conditions that he was aware of at the time of the sale.

(2) the customer asked if interest would be charged on the insurance premium and the salesperson responded "*no*". This is incorrect as interest would be charged if the statement balance (including the PPI premium) was not paid off in full each month.

Cumulative effect of breaches

4.18. The overall effect of the above failings was that approximately 40% of Egg's sales calls failed to comply with Principle 6, which requires firms to treat their customers fairly. This was due, in part, to Egg having in place a flawed sales process that failed adequately to address the risk of customers being treated unfairly.

Call monitoring

4.19. Egg made telephone sales of PPI through two different sales channels: inbound and outbound calls. Separate business units were responsible for each sales channel, each with its own scripts, call monitoring review sheets and compliance staff.

4.20. Egg carried out regular monitoring of sales calls. However, there was no procedure for carrying out regular analysis of the results of that monitoring, in order to enable Egg to draw general conclusions about its sales techniques. Egg did carry out some informal ad hoc analysis but this was not comprehensive in terms of period covered or sales channel.

4.21. Egg failed to ensure that its monitoring procedures led to consistent and high quality outcomes across its business as a whole. There was insufficient contact between, and oversight of, the different business units responsible for PPI sales. This meant that issues arising from the monitoring of sales in one business unit, if identified at all, were not formally notified to the other business unit.

Management information – complaints and cancellations

4.22. Management information on PPI was provided monthly to Egg's senior management. This included information on cancellations, complaints, claims, and premium income. However, it did not include the results of Egg's monitoring of sales calls.

4.23. All complaints regarding 2007 PPI sales related to the cover being applied to accounts when the customer had not requested it or consented to it. In addition, the third most common reason for cancellation[1] was categorised by the firm as "*didn't realise had cover*" – which also indicates that the customer had not requested or consented to PPI being added to their account. Egg had considered the complaints results, and had identified that most complaints that were upheld were due to Egg's inability to prove that PPI had been sold correctly.

4.24. Management information escalated within the firm showed the reasons for complaints, but not the reasons for cancellations. Together these contributed to the failure to identify and take appropriate steps to rectify the breaches identified above.

5. ANALYSIS OF BREACHES

5.1. The FSA considers that Egg breached Principle 3 of the FSA's Principles for Businesses in the following respects:

(1) Egg failed to take reasonable care to establish and maintain a sales process which ensured that customers were treated fairly.

(2) Some scripts used by Egg did not contain a question asking the customer for explicit consent to proceed on limited information.

(3) Many scripts used ambiguous or 'rolled-up' questions which made it unclear what the customer was agreeing to, and in particular whether the customer was agreeing to take the PPI or merely consenting to receive more information by post. In practice, such scripts are not robust enough to ensure that sales staff obtain informed customer consent to taking the product, or doing so on the basis of limited information.

[1] After "*don't need it*" and "*too expensive*".

(4) The failure to seek the customer's explicit consent to receiving only limited information, either because the question was not asked or because the question was unclear, is also a breach of ICOB 5.3.6 R.

(5) Egg failed to establish and maintain adequate monitoring procedures, leading to failures in Egg's telephone sales processes.

(6) Egg failed to ensure that all relevant management information was escalated to enable the firm to identify problems with the sale of credit card PPI in a timely manner, and did not take effective action to improve its sales processes as a result of the information which was escalated.

5.2. The FSA considers that Egg breached Principle 6 of the FSA's Principles for Businesses in the following respects:

(1) Egg inappropriately handled customers' objections to purchasing PPI, by putting undue pressure on customers to purchase PPI and by overemphasising customers' ability to cancel the policy.

(2) Egg did not explain clearly to customers that they were being asked to consent to buying the policy on the day of the call, and sold policies to customers who had not clearly consented to the sale.

(3) Egg failed to give adequate responses to customers' queries on the price of, or exclusions applicable to, PPI policies, and in some cases provided information that was inaccurate.

6. ANALYSIS OF THE SANCTION

Determining the level of the financial penalty

6.1. The FSA's policy in relation to the imposition of financial penalties is set out in Chapter 6 of the Decision Procedure and Penalties Manual ("DEPP") which forms part of the FSA Handbook. It was previously set out in Chapter 13 of the Enforcement Manual ("ENF"), to which the FSA has had regard in addition to DEPP. DEPP sets out the factors that may be of particular relevance in determining the appropriate level of financial penalty for a firm or approved person. The criteria are not exhaustive and all relevant circumstances of the case will be taken into consideration. Extracts from DEPP are set out in Annex A.

Deterrence

6.2. As communicated to the market in the FSA's thematic update on the sale of PPI published on 26 September 2007, in line with its general approach, the FSA is seeking to increase the level of fines in cases where this is warranted by the nature, seriousness and impact of the breach in question, and by the likely impact on deterrence. Firms have been given due warning of their obligations to treat customers fairly, both generally and on PPI in particular. Consequently, the FSA will now seek to impose relatively higher fines for firms in the PPI market where standards fall below required levels.

The seriousness of the breaches

6.3. The FSA has had regard to the seriousness of the breaches, including the nature of the requirements breached, the number and duration of the breaches, the extent to which the breaches revealed serious or systemic weakness of the management systems or internal controls, the number of customers who were exposed to risk of loss and the number of customers likely actually to suffer financial detriment.

6.4. For the reasons set out at paragraph 2.5 above and having regard to the impact on Egg's customers, the FSA considers that the breaches are of a serious nature.

The extent to which the breach was deliberate or reckless

6.5. The FSA does not consider that Egg acted in a deliberate or reckless manner.

The amount of profits accrued

6.6. The FSA has taken into account the income received by Egg from sales of PPI during the Relevant Period.

The size, financial resources and other circumstances of the firm

6.7. There is no evidence to suggest that Egg is unable to pay the penalty.

Conduct following the breach

6.8. The FSA has had regard to the fact that the problems in Egg's sales process were identified by the FSA, and not by Egg's own systems and procedures.

6.9. The FSA has taken account of the actions taken by Egg referred to in paragraph 2.6 above. The FSA considers that the remedial action committed to by Egg and the proposal to conduct a customer contact exercise and to pay compensation are particularly important mitigating factors.

Disciplinary record and compliance history

6.10. Egg has been authorised by the FSA since 1 December 2001 and has not been the subject of previous FSA disciplinary action.

Previous action taken in relation to similar failings

6.11. 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. This was considered alongside the principal purpose for which the FSA imposes sanctions, namely to promote high standards of regulatory 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.

FSA guidance and other published materials

6.12. In determining the appropriate level of financial penalty, the FSA has had regard to the fact that the FSA published a wealth of materials which raised relevant concerns and set out examples of compliant behaviour in relation to the sale of PPI. Egg's apparent disregard of these materials increases the seriousness with which the FSA has viewed the breaches.

6.13. Since September 2006 the FSA has published a number of Final Notices highlighting PPI failings. In particular, in January 2007 the FSA published a Final Notice in relation to store and credit card PPI which included failings similar to those found to be present with Egg's credit card PPI, including failing to ensure that all customers received adequate information about PPI, failing to ensure that monitoring procedures were effective and appropriate for its business, and failing to act adequately in response to the management information which was collected and available. The FSA considers it a significantly aggravating factor that Egg failed to take adequate action to analyse and correct its own practices following the publication of that Final Notice.

7. CONCLUSIONS

7.1. Having regard to the seriousness of the breaches and the risk they posed to the FSA's statutory objectives of maintaining confidence in the financial system and securing the appropriate degree of protection for consumers, the FSA has imposed a financial penalty of £721,000 on Egg.

8. DECISION MAKER

8.1. The decision which gave rise to the obligation to give this Final Notice was made by the Settlement Decision Makers on behalf of the FSA.

9. IMPORTANT

9.1. This Final Notice is given to Egg in accordance with section 390 of the Act.

Manner of and time for Payment

9.2. The financial penalty must be paid in full by Egg to the FSA by no later than 22 December 2008, 14 days from the date of the Final Notice.

If the financial penalty is not paid

9.3. If all or any of the financial penalty is outstanding on 23 December 2008, the FSA may recover the outstanding amount as a debt owed by Egg and due to the FSA.

Publicity

9.4. 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.

9.5. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

9.6. For more information concerning this matter generally, Egg should contact Dermot Lynch (direct line: 020 7066 1206) of the Enforcement Division of the FSA.

William Amos

Head of Retail 1
FSA Enforcement Division

Annex A: Rules and guidance

1. Insurance: Conduct of Business

1.1. The part of the FSA Handbook entitled Insurance: Conduct of Business (ICOB) in force during the Relevant Period contained rules and guidance relevant to sales of PPI.

1.2. From 6 January 2008 ICOB was replaced by the Insurance: New Conduct of Business sourcebook (ICOBS).

1.3. ICOB 5.3.6 R provided as follows[2]:

"(1) If a non-investment insurance contract is a distance contract, an insurance intermediary must provide a retail customer, in good time before the conclusion of the contract, with the following information in a durable medium, unless an exemption in (2) applies:

(a) a policy summary (ICOB 5.5.1 R to ICOB 5.5.13 G);
(b) a statement of price (ICOB 5.5.14 R to ICOB 5.5.15 G);
(c) the relevant directive-required information set out in ICOB 5.5.20 R (subject to ICOB 5.5.17 G to ICOB 5.5.19 R);
(d) the policy document (ICOB 5.5.27 R to ICOB 5.5.28 G);
(e) information about the claims handling process (ICOB 5.3.9 R to ICOB 5.3.11 G);
(f) information, where applicable, about cancellation rights (ICOB 5.3.12 R to ICOB 5.3.14 G); and
(g) information, where applicable, about the extent and level of compensation cover and how further information can be obtained about compensation arrangements, if not already included in (a).

(2) The following exemptions from (1) apply:

(a) Telephone sales

If a non-investment insurance contract is concluded by telephone, provided the retail customer gives his explicit consent to receiving only limited information, an insurance intermediary may proceed on the basis of at least the following information:

(i) name of the insurance undertaking;
(ii) type of insurance and cover;
(iii) significant features and benefits;
(iv) significant or unusual exclusions or limitations;

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[2] See now ICOBS 3.1.14 R

(v) the total price to be paid by the retail customer for the non-investment insurance contract (or, if an exact price cannot be indicated, the basis for calculation of the price enabling the retail customer to verify it);
(vi) notice of the possibility that other taxes or costs may exist in respect of the non-investment insurance contract that are not payable via the insurance intermediary or imposed by him;
(vii) the existence or absence of the right of cancellation and, where applicable, the duration of the cancellation period and the conditions for exercising the right to cancel, including information on the amount which the retail customer may be required to pay;
(viii) a telephone number or address to which a claim may be notified; and
(ix) that other information is available on request and the nature of that information.

If the retail customer does not give his explicit consent to receiving limited information, and the parties wish to proceed by telephone, the insurance intermediary must prior to the conclusion of the contract provide all of the information required by (1) orally to the retail customer."

2. The FSA's policy on the imposition of financial penalties

2.1. The FSA's policy in relation to the imposition of financial penalties is set out in Chapter 6 of the Decision Procedure and Penalties Manual (DEPP) which forms part of the FSA Handbook. It was previously set out in Chapter 13 of the Enforcement Manual (ENF). The principal purpose of imposing a financial penalty is to promote high standards of regulatory 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.

2.2. The FSA will consider the full circumstances of each case when determining whether or not to take action for a financial penalty. DEPP 6.2.1 G sets out guidance on a non-exhaustive list of factors that may be of relevance in determining whether to take action for a financial penalty, which include the following.

(1) DEPP 6.2.1 G (1): The nature, seriousness and impact of the suspected breach.

(2) DEPP 6.2.1 G (2): The conduct of the person after the breach.

(3) DEPP 6.2.1 G (3): The previous disciplinary record and compliance history of the person.

(4) DEPP 6.2.1 G (4): FSA guidance and other published materials.

(5) DEPP 6.2.1 G (5): Action taken by the FSA in previous similar cases.

3. Determining the level of the financial penalty

3.1. The FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty. DEPP 6.5.2 G, and previously ENF 13.3.3 G, sets out guidance on a non exhaustive list of factors that may be of relevance when determining the amount of a financial penalty.

3.2. Factors that may be relevant to determining the appropriate level of financial penalty include:

(1) whether the breach revealed serious or systematic weaknesses in the person's procedures or of the management systems or internal controls relating to all or part of a person's business (DEPP 6.5.2 G (2) (b)); and

(2) the general compliance history of the person, including whether the FSA has previously brought to the person's attention, issues similar or related to the conduct that constitutes the breach in respect of which the penalty is imposed (DEPP 6.5.2 G (9) (d)).

3.3. Corresponding provisions are set out in ENF 13.3.3 G, which sets out factors that may be relevant when determining the appropriate level of financial penalty for a firm including the following:

(1) whether the misconduct or contravention revealed serious or systematic weaknesses of the management systems or internal controls relating to all or part of the firm's business (ENF 13.3.3 G (1) (c)); and

(2) disciplinary record and compliance history. This will include whether the FSA has previously requested the firm to take remedial action, and the extent to which that action has been taken (ENF 13.3.3 G (6)).

Annex B: Form of customer contact letter

Sample customer contact letter for Egg PPI

Name
Address

Date
Egg card

Important Information about PPI sold on Egg credit cards

- **You have a PPI policy on your Egg credit card**
- **The FSA has identified problems with our PPI sales process**
- **You may be entitled to a refund**
- **Please read this letter carefully and respond if necessary**

Dear Mr Ab Sample

Following an investigation by our regulator the Financial Services Authority (FSA) we are now carrying out a review of telephone sales of payment protection insurance (PPI) on Egg credit cards. It is important that you read, and if necessary, respond to this letter.

Your PPI policy

On [date] you were sold a type of PPI called "Egg Card Repayment Protection". The cost per month of the insurance is 79p per £100 of your statement balance. Subject to certain exclusions and limitations the insurance would pay out an amount equivalent to 10% of the card balance at the point of claim up to a maximum of twelve months in the event of you suffering an accident, sickness or unemployment. It also provides a lump sum payment to clear the balance in the event of your death, diagnosis of a critical illness or needing to give up work to care for a relative. Details of the cover and the exclusions and limitations are set out in the attached documents.

How it works

Example Benefit - if you suffered an accident, sickness or unemployment

If the outstanding balance on your credit card is £1,000 and you make an approved claim that meets the terms and conditions of the policy for accident, sickness or unemployment you would receive a benefit of £100 per month (being 10% of your balance at the point of claim) paid directly to your credit card for up to a maximum of 12 months.

Example Benefit – claiming for critical illness, life cover or carer cover

If the outstanding balance on your credit card was £1,000 and you made an approved claim that meets the terms and conditions of the policy for a Critical Illness then the amount of the entire outstanding balance on your credit card would be cleared.

Your policy also includes Life Cover and in the event of your death the amount of the entire outstanding balance at the time of claim would be cleared following an approved claim that meets the terms and conditions of the policy.

Your policy also includes Carer Cover, and in the event of you needing to give up work solely due to the need to care for a relative the amount of the entire outstanding balance at the time of the claim would be cleared following an approved claim that meets the terms and conditions of the policy.

What you need to do next

We have attached an overview document and a copy of your PPI policy is also enclosed. Please read these documents carefully to ensure that you understand the terms and conditions of the policy. If you want to continue with the PPI policy, you do not need to do anything. If you have any concerns about the PPI policy or the way it was sold to you, please contact us on 0800 0683772*. Depending on your circumstances, you may be entitled to a refund of the premiums paid.

Yours sincerely

Ian Henderson

Head of Insurance

* This is a freephone number. Lines are open between 08:00 – 18:00 Monday – Friday, 08:00 – 13:00 Saturday. Calls may be monitored for training and quality purposes.

Sample customer contact letter for Egg PPI - Cancelled Policies

Name
Address

Date
Your Egg Card PPI Ending On:

Important Information about PPI sold on Egg credit cards

- **You had a PPI policy on your Egg credit card**
- **The FSA has identified problems with our PPI sales process**
- **You may be entitled to a refund**
- **Please read this letter carefully and respond if necessary**

Dear Mr Ab Sample

Following an investigation by our regulator the Financial Services Authority (FSA) we are now carrying out a review of telephone sales of payment protection insurance (PPI) on Egg credit cards. It is important that you read, and if necessary, respond to this letter.

Your PPI policy

On [date] you were sold a type of PPI called "Egg Card Repayment Protection". The cost per month of the insurance was 79p per £100 of your statement balance. This policy was cancelled on [cancellation date] Subject to certain exclusions and limitations the insurance would have paid out an amount equivalent to 10% of the card balance at the point of claim up to a maximum of twelve months in the event of you suffering an accident, sickness or unemployment. It would have also provided a lump sum payment to clear your balance had you died or been diagnosed with a serious illness. Details of the cover and the exclusions and limitations are set out in the attached documents.

How it works

Example Benefit - if you suffered an accident, sickness or unemployment

If the outstanding balance on your credit card was £1,000 and you made an approved claim that meets the terms and conditions of the policy for accident, sickness or unemployment you would have received a benefit of £100 per month (being 10% of your balance at the point of claim) paid directly to your credit card for up to a maximum of 12 months.

Example Benefit – claiming for serious illness or life cover

If the outstanding balance on your credit card was £1,000 and you made an approved claim that meets the terms and conditions of the policy for a Serious Illness then the amount of the entire outstanding balance on your credit card would have been cleared.

Your policy also included Life Cover, and in the event of your death the amount of the entire outstanding balance at the time of claim would have been cleared following an approved claim that meets the terms and conditions of the policy.

What you need to do next

We have attached an overview document and a copy of your PPI policy is also enclosed. Please read these documents carefully to ensure that you understand the terms and conditions of the policy. If you have any concerns about the PPI policy or the way it was sold to you, please contact us on 0800 0683772*. Depending on your circumstances, you may be entitled to a refund of the premiums paid.

Yours sincerely

Ian Henderson

Head of Insurance

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