
FINAL NOTICE

To: **Regency Mortgage Corporation Limited**
Of: **10-12 Lansdowne Road**
Bournemouth
Dorset
BH1 1SD
Date **4 September 2006**

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. THE PENALTY

- 1.1. The FSA gave Regency Mortgage Corporation Ltd (Regency) a Decision Notice on 1 September 2006 which notified Regency 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 £56,000 on Regency in respect of breaches of FSA Principles 2, 3 and 6 of the FSA's Principles for Businesses (FSA Principles) which occurred between 14 January and 22 November 2005 (the relevant period).
- 1.2. Regency confirmed on 1 September 2006 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 Regency the facts and matters relied on, the FSA imposes a financial penalty on Regency in the amount of £56,000.

- 1.4. By agreeing to settle at an early stage of the FSA's investigation, Regency qualified for a 30% (stage 1) discount under the FSA's executive settlement procedures¹. Were it not for this discount FSA would have imposed a financial penalty of £80,000 on Regency.
- 1.5. The following rules are also relevant:
- (a) 3.1.1, 3.2.6 and 3.2.20 in the part of the FSA Handbook (the Handbook) entitled Senior Management Arrangements, Systems and Controls (SYSC); and
 - (b) Rules 4.3.1, 4.3.2, 4.3.6, 4.4.1, 4.4.7, 5.3.1 and 5.5.14 in the part of the Handbook entitled Insurance: Conduct of Business (ICOB).

REASONS FOR THE ACTION

- 1.6. The FSA imposes a financial penalty on Regency for breaches of the principles and rules referred to above. These breaches relate to failures on the part of Regency in relation to its sale of Mortgage Payment Protection Insurance (MPPI).
- 1.7. These breaches, which are described in more detail at section 4 below, relate to Regency's:
- (1) failure to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems;
 - (2) failure to conduct its business with due skill, care and diligence; and
 - (3) failure to pay due regard to the interests of its customers and treat them fairly.
- 1.8. Regency's breaches are viewed as being particularly serious because the Regency customer base consists primarily of sub-prime customers who traditionally have limited financial means and access to credit. The risks for these customers are therefore high if they are not eligible to claim on a recommended MPPI policy, or if the policy is not suitable for their demands and needs. The cumulative effect of the failings in the firm's senior management arrangements and systems and controls exposed their customers to an unacceptable risk of being sold MPPI policies which were not suitable for their needs. In particular the following failings were identified:
- (1) Regency's information gathering processes failed to ensure that sufficient information about personal circumstances were obtained at the point of sale to ensure that MPPI recommendations met customers' demands and needs.

¹ Guidance on discounts for early settlement is contained in Chapter 13.7 of the Enforcement Manual (part of the FSA's Handbook of rules and guidance).

- (2) Regency failed to identify weaknesses in or amend its systems and controls for the sale of MPPI prior to the highlighting of weaknesses at the FSA's thematic visit of 23 August 2005.
- (3) Management information provided to Regency's senior management was not sufficient to enable them to identify risks of regulatory concern arising from the sale of MPPI.
- (4) Inadequate compliance record keeping procedures resulted in the destruction of a significant number of demands and needs statements and questionnaires for MPPI sales completed between January and July 2005. As a result of this, Regency has confirmed that in a significant number of cases it is unable to demonstrate that its MPPI sales met the demands and needs of its customers or were suitable.
- (5) Regency did not have an adequate compliance function and its monitoring procedures failed to identify breaches of regulatory requirements.
- (6) In a number of the cases reviewed, customers were sold a policy on re-mortgaging their homes, despite having cover already from a previous mortgage, or were sold a policy under parts of which they would not be able to claim, without consideration of whether the policy was still suitable for the customer and without the customer being made aware that parts of the policy did not apply to them.

1.9. Regency's failures therefore merit the imposition of a financial penalty. In deciding upon this disciplinary sanction, the FSA recognises the following measures taken by Regency which have served to mitigate the seriousness of its failings:

- (1) Shortly after the commencement of the FSA's investigation, Regency initiated its own internal review of past MPPI sales and systems and controls. This was overseen by an external compliance consultancy firm. The past business review (PBR) identified significant problems in the MPPI sales process. Regency has taken prompt steps to improve the collection of information about a customer's personal circumstances and customer disclosure through an enhanced statement of demands and needs and statement of price.
- (2) The PBR has identified a number of high risk sales areas, including the sale of policies to customers which may not have met the customers' demands and needs. Given the risk of potential unsuitable sales, Regency has committed to:
 - (a) carrying out a customer contact exercise for those sales where Regency's review has identified an issue with the policy sold; and
 - (b) paying appropriate redress where unsuitable advice has led to recommendations and sales that were not appropriate for the customer's demands and needs.

- (3) The PBR and related customer contact exercise should ensure that customers who purchased payment protection insurance products where recommendations were not suitable receive appropriate redress.
- (4) Regency has co-operated fully with the Enforcement action. Regency has agreed the facts quickly ensuring efficient resolution of the matter and has received full credit for settlement at an early stage. Without this level of co-operation the financial penalty would have been higher.

2. BACKGROUND

The Firm

- 2.1. Regency was incorporated as a public limited company on 27 April 1998. It was incorporated as a private limited company on 24 September 2004. Regency has been authorised by the FSA since 31 October 2004, with permission granted by the FSA pursuant to the Act to conduct certain regulated activities. Since 14 January 2005, Regency has held permission in respect of advising on and arranging non investment insurance contracts.
- 2.2. Regency has four Directors, who have held these positions following a management buyout of the previous controllers in September 2004. The management buyout resulted in significant structural, organisational and managerial change in the period immediately prior to regulation.
- 2.3. Regency specialises in arranging and advising on sub-prime mortgage and insurance sales within the right to buy market for local authority and housing association tenants. Its customer base is predominantly characterised by individuals with impaired or low credit ratings who may find it difficult to obtain finance from traditional sources.

The Product – MPPI

- 2.4. MPPI is sold in conjunction with mortgage products to provide protection in the event of accident, sickness and unemployment. Regency sells both regular premium and single premium policies, the latter having terms of between two and five years. However, Regency's sales in the relevant period predominantly consisted of three year single premium policies. In the relevant period, MPPI was sold by 20 Field Sales Advisers (Advisers) in the home of its customers. The sales were made in conjunction with the administrative activities relating to the mortgage sale. Advice for the mortgage sale is given through telephone based advisers, and was therefore the subject of a separate sales process.

FSA thematic visit

- 2.5. FSA supervision carried out a visit on 23 August 2005, as part of a thematic project into the sale of payment protection insurance with credit arrangements. Supervisors identified a number of concerns relating to Regency's sale of MPPI, which included:

- (1) inadequate oral disclosure at the point of sale of policy exclusions, price, refunds policy and cancellation rights;
 - (2) practices that suggested that Regency was not treating its customers fairly, for example, failing to consider affordability when making a MPPI recommendation, which was likely to be a relevant factor for most of the firm's customers, given its customer base;
 - (3) the lack of available management information to enable Regency adequately to assess risks of regulatory concern; and
 - (4) inadequate resources in the compliance department.
- 2.6. On 4 November 2005, the FSA wrote a "Dear CEO" letter (the Dear CEO letter) to the industry sector, outlining the findings of the thematic project concerning payment protection insurance, and highlighted a number of key areas, where firms were not treating their customers fairly. Upon receipt of this letter and following their referral to Enforcement, Regency commenced its own review of past sales and systems and controls, the details of which are set out below.

Past Business Review.

- 2.7. As detailed above, following the FSA's Dear CEO letter, Regency reviewed its MPPI sales from the period 14 January 2005 to 31 October 2005 and reviewed its systems and controls. Regency commissioned an external compliance consultancy firm to oversee this work and provide input into this process. Regency submitted reports to the FSA on 24 February 2006, and 16 June 2006. In carrying out the PBR, Regency has reviewed 285 files in total, which represents 50% of the MPPI policies that it sold between 14 January 2005 and 31 October 2005.

24 February 2006 report

- 2.8. Regency provided the FSA with an update on 24 February 2006 as to the progress of the PBR. The report highlighted that:
- (1) Regency had identified that it had destroyed a significant number of demands and needs questionnaires through the scanning process, and had failed to maintain demands and needs statements on file;
 - (2) as a result of the destruction of these relevant documents, there was insufficient information for Regency to ascertain whether its recommendations had been suitable. In particular, there was a lack of recorded information in respect of existing insurance policies, employer based income protection policies, or the consideration of alternative sources of funds to repay the mortgage; and
 - (3) in 17% of files reviewed, Regency identified potential issues relating to the ability of customers to claim, as a result of pre-existing medical conditions. In another four percent of the files reviewed, Regency identified potential issues relating to eligibility, as a result of the employment status of the customer.

- 2.9. In summary, Regency indicated that further work was needed in a number of areas where there were weaknesses in documentation and record keeping. Furthermore, Regency confirmed that a programme of further work was being planned to ensure that no customers had been disadvantaged by the sale of MPPI.

16 June 2006 Report

- 2.10. Regency reported to the FSA on 16 June 2006. This report followed up on issues identified in the February report. The initial findings of the report highlighted that:

- (1) Regency had identified that 22% of sales may have resulted in risks to its customers, the majority of which Regency classified as medium- high or high risk;
- (2) the greatest incidence of risk to customers occurred in six percent of the total reviewed cases, whereby customers who were carrying out a re-mortgage had been sold a policy, despite the existence of cover from a previous mortgage sale.
- (3) in a further six percent of the cases reviewed, Regency had sold accident, sickness and unemployment cover but, due to their employment status, customers would not have been able to claim on the unemployment element of the policy and Regency was not able to evidence that this had been taken into account in the suitability assessment or disclosed to the customer;
- (4) Regency was not be able to evidence why it had recommended a single premium policy over the monthly premium option, or be able to show that the full implications and costs of taking out the single premium option had been explained to the customer.

- 2.11. Regency has agreed to commence a customer contact exercise for those customers identified as being in sales areas of risk, and, in some categories of risk, is considering appropriate redress methods. Regency noted that the results of the PBR exercise may change following the planned customer contact exercise.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

- 3.1. 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."

FSA Rules and Principles

- 3.2. The FSA's rule making powers are set out in Chapter I of Part X of the Act (Rules and Guidance). In accordance with the powers and provisions under this part of the Act the FSA has made rules in respect of senior management arrangements, systems and controls and the conduct of insurance business.

3.3. The 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. The rules and Principles which are relevant to this case are listed at appendix 1.

4. BREACHES OF FSA PRINCIPLES FOR BUSINESSES

4.1. Principle 3 (Management and control) provides that:

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

4.2. In considering the expected standards required under this principle, the FSA also has considered the specific requirements of SYSC 3.1.1R & 3.2.6R.

Facts and Matters Relied on

By reason of the facts and matters detailed in paragraphs 4.3 to 4.17, the FSA considers that Regency has contravened Principle 3 of the FSA's Principles by failing to organise and control its affairs responsibly and effectively.

Compliance and Monitoring Arrangements

4.3. Regency's compliance arrangements included the maintenance of a small Compliance Department resourced by two permanent members of staff (the Compliance Director and Compliance Officer) with additional assistance provided by a secondee (as from July 2005).

4.4. In the relevant period, the main role of Regency's Compliance Department was to investigate complaints and to provide an administrative sign off for new procedures and financial promotions. The sign off process for procedural changes was primarily aimed at ensuring that there was a record of the relevant procedural change. It did not require the Compliance Department to audit the new procedures to ensure that they were compliant with regulatory requirements or generally fit for purpose.

4.5. Regency adopted a decentralised approach to compliance monitoring and the implementation of procedures for the sale of MPPI. These processes were implemented at departmental level. Between January 2005 and April 2005, the responsibility for these duties lay with the Sales Department, and from July 2005 onwards, with the Insurance Department. In the period from April to July 2005, managers from both departments shared this role. In the relevant period, the Compliance department did not carry out its own monitoring of MPPI sales, to ensure that the sale met the applicable regulatory standards.

4.6. Between January and April 2005, the selling practices of advisers were monitored by two Field Sales Supervisors who accompanied adviser visits, typically on a weekly basis for each adviser. Supervisors would complete an observation record to document the visit. However, it is apparent that the observation records used were not sufficient to ensure that the MPPI sales met regulatory requirements. Instead, they

focused on the selling and presentational skills of the adviser. Furthermore, there were no documented procedures put in place to explain how Field Supervisors would carry out the monitoring of the Advisers. This resulted in a significant risk that they applied different standards and that non-compliant sales were not recognised.

- 4.7. On 20 April 2005, Regency introduced a new observation record, along with guidance explaining how assessments would be carried out. However, shortly after the introduction of this new procedure, Regency made the Field Sales Supervisors redundant and started to move away from field to paper-based monitoring of its MPPI sales.
- 4.8. As from July 2005 monitoring activities were solely paper-based and responsibility for monitoring moved from the Sales department to the Insurance Department. Prior to the introduction of this paper-based monitoring regime, it is not evident that Regency reviewed customer documentation for compliance purposes; this is evidenced by the passing of sales prior to July 2005, even when there was no Demands and Needs questionnaires on file, or questionnaires that were on file were incomplete.
- 4.9. In the relevant period, the Compliance Department did not perform a quality assurance role to ensure that compliance monitoring was of an appropriate standard and effective in terms of the identification and rectification of compliance failings. Furthermore, Regency failed to develop and put in place effective procedures for compliance oversight. Whilst Regency commenced the drafting of a Compliance Manual in preparation for FSA regulation, the document was not completed, nor was it updated.
- 4.10. Consequently, there was weak central oversight and control over the sale of MPPI, and department procedures. Compliance did not assess procedures for the sale of MPPI, to ensure that they met applicable standards or actively identified risks arising from the sale of MPPI policies. As a result of these failings Regency failed to identify, in a timely fashion, that its procedures for record keeping were deficient. It also failed to identify, that the demands and needs questionnaire was deficient in recording customer information, and that disclosure through the demands and needs statement and statement of price was not complete.
- 4.11. Following the removal of field supervisors, Regency significantly reduced field monitoring. Whilst Regency's change in monitoring approach improved paper-based monitoring, Regency had no procedure in place to monitor the selling practices of its Advisers. In addition, Advisers did not have sales procedures to follow; hence, there was no mechanism to ensure that key matters such as exclusions were disclosed consistently to customers. The paper based monitoring regime employed by the Firm after July 2005, was not therefore appropriate for a direct sales force.
- 4.12. The resources dedicated to the monitoring of MPPI sales appear to have been reduced following the move to desk-based monitoring. Whilst the Insurance manager carried out file reviews for four sales per adviser per month, this became an increasingly difficult target to meet in light of the Insurance manager's other responsibilities. As a result, compliance monitoring was delegated amongst other members of the Insurance Department; however, their work was not reviewed for quality purposes by the

Insurance manager, despite a lack of experience in team members undertaking monitoring activities.

- 4.13. Significantly, Regency's monitoring regime appears not to have been effective in identifying risks to customers, as highlighted in the subsequent PBR (see paragraphs 2.7 to 2.9 above). On 14 September 2005, correspondence between the Insurance manager and the Advisers showed that out of a total of 168 paper-based reviews, only five percent of sales failed to meet Regency's internal standards. Further, monitoring did not identify any of the high risk issues that have been identified subsequently as part of Regency's PBR. This indicates that monitoring was not effective in identifying compliance failings in respect of MPPI sales. An effective system would have identified these.

Management Information

- 4.14. Management information received by Regency from its product provider was insufficient to allow Regency's senior management to monitor risks of regulatory concern arising from the sale of MPPI. In particular, Regency did not receive management information relating to eligibility. Management information that was received from the product provider was high level and related to monthly sales data. Although the inadequacy of management information was identified as a concern by Regency's senior management prior to the thematic visit, Regency was not able to improve the timeliness and quality of management information that it was receiving from its product provider.
- 4.15. The Insurance Department in this period received high level internal sales data, which did enable Regency to identify the continued selling of five year policies, despite a reduction of the pre-emption period to three years. There was no formal reporting and recording of compliance issues within the relevant period. Until the end of April 2005, Field Supervisors would supply sales information to the Compliance Officer on a monthly basis, however, there was no formal process for reporting issues to the Compliance Director, and then subsequently to the Board on compliance issues. A lack of both external information from its product provider and internally generated management information from the sales process severely restricted the ability of Regency's senior management to identify potentially non-compliant sales practices.

Record keeping

- 4.16. Regency failed to maintain a centralised record keeping procedure and relied on individual departments to retain records to appropriate regulatory standards. Between January and July 2005, Regency utilised an outsourcing arrangement with a scanning bureau, to scan customer documents, and retain electronic versions for archiving. In this period, the Administration Department was responsible for thinning customer documents. Prior to General Insurance regulation, Regency employed a thinning procedure for customer documents, which resulted in only the policy disclaimer being maintained for MPPI sales.
- 4.17. Regency did not update these procedures to reflect regulatory record keeping requirements after 14 January 2005 and continued to only retain the disclaimer form. Regency's failure to update its record keeping procedures led to the destruction of a

significant number of demands and needs questionnaires and statements between January and July 2005 that should have been retained. Regency only identified this problem, upon carrying out its internal review of past sales. In addition, Regency failed also to retain a copy of the demands and needs statement on customers' files. As a result of these failings, Regency (as noted in their internal review report provided to the FSA on 24 February 2006 (see paragraph 2.7 above)), have not been able to evidence the suitability of a number of its MPPI sales.

4.18. Principle 6 (Customers' interests) provides that:

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

4.19. In considering the expected standards required under this principle, the FSA also has considered the requirements of ICOB, specifically; ICOB 4.3.1R information gathering requirements relating to a customer's personal circumstances, 4.4.1R and 4.4.7R pertaining to the content of demands and needs statements and record keeping, and 5.5.14R in relation to the content of the statement of price.

Facts and Matters Relied on

By reason of the facts and matters detailed in paragraphs 4.20 to 4.26, the FSA considers that Regency has contravened Principle 6 of the FSA's Principles by failing to pay due regard to the interests of its customers and treat them fairly.

4.20. In the relevant period MPPI was sold by Advisers as a separate presentation, following the administrative completion of the mortgage application. Regency required Advisers to collect customer information on a Demands and Needs questionnaire. The questionnaire was a tick box schedule, which Advisers would fill in to record customer information about key areas of personal circumstances such as pre-existing medical conditions, employment status and existing insurance cover. Advisers used a decision tree in conjunction with the questionnaire to assist in product selection. However, there were no other documented sales procedures in place to assist the adviser to ensure that the sale would meet the applicable regulatory standards.

4.21. Furthermore, in some circumstances, this tick box approach would not have enabled Regency's Advisers to record sufficient information about the customer in order to assess their demands and needs and to make an appropriate recommendation. In this respect the Demands and Needs questionnaire did not record, nor did advisers gather, information pertaining to the affordability of the policy. Affordability (particularly in view of Regency's customer' base) is likely to be a relevant piece of information in ascertaining the demands and needs of the customer and in determining whether a single or regular premium policy would be more suitable. In recommending a regular premium policy, for example, it would be appropriate for the adviser to consider the extent to which the customer had sufficient available funds to be able to maintain payments, as cover would lapse if they failed to do so. Whilst affordability was considered in the mortgage sale process, it is not evident that these details were passed to Advisers to enable them to make a recommendation based on this information. In light of the customer base, affordability would have been a relevant piece of information.

- 4.22. Weaknesses in the Firm's procedures for the gathering of customer information meant that Advisers were not in a position to gather sufficient information about a customer's personal circumstances in order to identify their requirements adequately. As a result of the deficiencies in its information gathering processes Regency's advisers were not in all cases able adequately to assess customers' demands and needs and ensure that MPPI recommendations were appropriate for the customer's demands and needs.
- 4.23. Product provider information indicates that 42% of claims made by Regency's customers against their MPPI policies sold in the relevant period were rejected by the product provider, primarily because the customer does not appear to have been able to claim on the policy or elements of it. Regency did not align its sales process with the claims handling process, to ensure that it was not selling policies to customers who were not eligible to claim on these policies.
- 4.24. As a result of the findings of the PBR, Regency identified issues with 22% of sales in the relevant period, with the highest incidence of risk occurring where customers have been sold policies where they already had MPPI in place, or had purchased policies and are not eligible to claim on elements of this policy.
- 4.25. During the MPPI sales process, a significant delay could occur between the recommendation of the MPPI policy in conjunction with the completion of the MPPI application form, and when the contract became effective following mortgage completion. This delay resulted from the right to buy process in which applicants would require local authority approval prior to completing the sale. Regency failed to implement a process for verifying whether there had been any significant changes in customers' personal circumstances which could affect their eligibility prior to the policy becoming effective. Only where the Underwriting Department identified that there was insufficient funding at the time of mortgage completion, would Regency carry out a resale of the MPPI policy. Other changes in customer circumstances would not be identified. The lack of procedures exposed customers to the risk of being sold a MPPI policy that they were not eligible to claim upon.
- 4.26. When calculating the total cost associated with single premium MPPI the value of the policy premium is added to the total value of the loan, and interest is then applied to this additional amount over the term of the mortgage. Regency failed adequately to disclose in the statement of price the total cost of the single premium policy. Regency set out the premium cost but failed to detail the interest cost payable over the duration of the customers' mortgage. Schedules provided by Regency to the FSA show that the cumulative value of interest costs are a significant proportion of the total cost of the single premium policy. Advisers were instructed, verbally, to provide an oral indication of the existence of the interest cost, but were not instructed to disclose the actual amount of interest to be paid or how that interest cost would be calculated, in the relevant period. In the absence of such information, customer would not be able to adequately compare the cost of single and regular premium policies.
- 4.27. Principle 2 (Skill, care and diligence) provides that:

A firm must conduct its business with due skill, care and diligence.

Facts and Matters Relied on

- 4.28. Regency failed to conduct its business with due skill, care and diligence in that it did not obey the FSA's rules and Principles which were in place during the relevant period. All the breaches described in paragraphs 4.3 to 4.26 above illustrate a failure on Regency's part to conduct its business to the requisite standard.

5. RELEVANT GUIDANCE ON SANCTION

- 5.1. The FSA's policy on the imposition of financial penalties is set out in Chapter 13 of the Enforcement Manual which forms part of the FSA Handbook (ENF). The principal purpose of the imposition of a financial penalty is to promote high standards of regulatory conduct by deterring firms who have breached regulatory requirements from committing further contraventions, helping to deter other firms from committing contraventions and demonstrating generally to firms the benefits of compliant behaviour.
- 5.2. Paragraph 13.3 of the Enforcement Manual sets out the factors that may be of particular relevance in determining the appropriate level of financial penalty. Paragraph 13.3.4 states that the criteria listed in the Manual are not exhaustive and all relevant circumstances of the case will be taken into consideration.
- 5.3. The FSA considers that the following factors are particularly relevant in this case:

The seriousness of the misconduct or contravention

In determining the appropriate sanction, the FSA has had regard to the seriousness of the contraventions, including the nature of the requirements breached, the number and duration of the breaches, the number of customers who were exposed to risk of loss and to whether the misconduct or contravention revealed serious or systemic weaknesses of the management systems or internal controls. For the reasons set out at paragraph 1.6 above, the FSA considers that the breaches identified in this case are of a serious nature.

The extent to which the contravention or misconduct was deliberate or reckless.

- 5.4. The FSA has not determined that Regency deliberately or recklessly contravened regulatory requirements.

The size, financial resources and other circumstances of the firm

- 5.5. In determining the level of penalty, the FSA has taken full account of Regency's financial resources. The FSA has also been mindful of the need to ensure that the interests of customers are protected and has sought to ensure that the level of the financial penalty is not set at a level that would effectively prohibit Regency from completing its past business review and providing redress where appropriate. Taking full account of these factors, and having considered and discussed with the firm its latest financial statements, the FSA considers that a penalty of £80,000 (subsequently discounted by 30% to £56,000 for early settlement) is appropriate.

The amount of profits accrued or loss avoided

- 5.6. The FSA has not determined that Regency deliberately set out to accrue additional profits or avoid a loss through the way in which it has sold of MPPI. However, the net effect of favouring single premium MPPI policies over regular monthly policies resulted in Regency receiving larger commission payments than they would otherwise have received had they recommended an increased amount of regular monthly policies. If there was a risk that unsuitable sales might have been made, then there was also a risk that through making these sales Regency may have accrued more income than would otherwise have been the case.

Conduct following the contravention

- 5.7. Shortly after referral to Enforcement, Regency submitted their plans to the FSA on 5 December 2005, outlining its plans for an internal review of sales, and systems and controls in relation to MPPI. Details of the work carried out and findings made as a result of Regency's review work are set out in paragraphs 2.7 to 2.9 above.
- 5.8. Regency has also made a number of improvements to its sales process, and has tried to address some of the weaknesses identified in the thematic visit and the in response to the issues raised by the "Dear CEO" letter. Specifically, on 1 January 2006, Regency introduced revised documentation which increased the amount of customer information recorded at the point of sale, including affordability, and ensured that the cost of interest to be added to single premium policies over the mortgage term was disclosed to customers. From this date, Regency introduced documented sales procedures to accompany this document. On 1 March 2006, Regency changed significantly its approach to selling MPPI by moving to a telephone based sales regime, so that it could monitor and record Advisers' selling practices more effectively.
- 5.9. Following its referral to Enforcement, Regency has co-operated fully with the Enforcement action. Regency agreed the facts quickly ensuring efficient resolution of the matter and has received full credit for settlement at an early stage. Without this level of co-operation the financial penalty would have been higher.

Disciplinary record and compliance history

- 5.10. Regency has not been the subject of previous disciplinary action.

Previous action taken in relation to similar failings

- 5.11. 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.

DECISION MAKER

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

IMPORTANT

- 5.13. This Final Notice is given to you in accordance with section 390 of the Act.
- 5.14. The following statutory rights are important.

Publicity

6. 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.
- 6.1. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Manner of and Time for Payment

- 6.2. The financial penalty must be paid in full by Regency to the FSA within six months of the date of this Notice.

If the financial penalty is not paid

- 6.3. If all or any part of the financial penalty is outstanding after the date of agreed payment, the FSA may recover the outstanding amount as a debt owed by Regency to the FSA.

FSA contacts

- 6.4. For more information concerning this matter generally, you should contact Catherine Harris (direct line: 020 7066 4872) of the Enforcement Division of the FSA.

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William Amos

Head Of Department, FSA Enforcement Division

APPENDIX 1

Principles referred to in the Notice

Principle 2 Skill, care and diligence

A firm must conduct its business with due skill, care and diligence

Principle 3 (Management and control)

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

Principle 6 Customers' interests

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

Rules referred to in the Notice

Senior Management Arrangements, Systems and Controls

SYSC 3.1.1R

A firm must take reasonable care to establish and maintain such systems and controls as are appropriate to its business.

SYSC 3.2.6R

A firm must take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system and for countering the risk that the firm might be used to further financial crime.

SYSC 3.2.20R

(1) *A firm must take reasonable care to make and retain adequate records of matters and dealings (including accounting records) which are the subject of requirements and standards under the regulatory system.*

(2) *Subject to (3) and to any other record-keeping rule in the Handbook, the records required by (1) or by such other rule must be capable of being reproduced in the English language on paper.*

(3) *If a firm's records relate to business carried on from an establishment in a country or territory outside the United Kingdom, an official language of that country or territory may be used instead of the English language as required by (2).*

Insurance Conduct of Business

ICOB 4.3.1R Requirement for suitability

(1) An *insurance intermediary* must take reasonable steps to ensure that, if in the course of *insurance mediation activities* it makes any *personal recommendation* to a *customer* to *buy* or *sell* a *non-investment insurance contract*, the *personal recommendation* is suitable for the *customer's* demands and needs at the time the *personal recommendation* is made.

(2) The *personal recommendation* in (1) must be based on the scope of the service disclosed in accordance with ICOB 4.2.8 R(6).

(3) An *insurance intermediary* may make a *personal recommendation* of a *non-investment insurance contract* that does not meet all of the *customer's* demands and needs, provided that:

there is no *non-investment insurance contract* within the *insurance intermediary's* scope, as determined by ICOB 4.2.8 R(6), that meets all of the *customer's* demands and needs; and

the *insurance intermediary* identifies to the *customer*, at the point at which the *personal recommendation* is made, the demands and needs that are not met by the contract that it *personally recommends*.

ICOB 4.3.2R Information about the customer's demands and needs

In assessing the *customer's* demands and needs, the *insurance intermediary* must:

(1) seek such information about the *customer's* circumstances and objectives as might reasonably be expected to be relevant in enabling the *insurance intermediary* to identify the *customer's* requirements. This must include any facts that would affect the type of insurance recommended, such as any relevant existing insurance;

(2) have regard to any relevant details about the *customer* that are readily available and accessible to the *insurance intermediary*, for example, in respect of other *contracts of insurance* on which the *insurance intermediary* has provided *advice* or information; and

(3) explain to the *customer* his duty to disclose all circumstances material to the insurance and the consequences of any failure to make such a disclosure, both before the *non-investment insurance contract* commences and throughout the duration of the contract; and take account of the information that the *customer* discloses.

ICOB 4.3.6R Assessing the suitability of a contract against a customer's demands and needs

In assessing whether a *non-investment insurance contract* is suitable to meet a *customer's* demands and needs, an *insurance intermediary* must take into account at least the following matters:

- (1) whether the level of cover is sufficient for the risks that the *customer* wishes to insure;
- (2) the cost of the contract, where this is relevant to the *customer's* demands and needs; and
- (3) the relevance of any exclusions, excesses, limitations or conditions in the contract.

ICOB 4.4.1R

(1) Unless ICOB 4.4.2 R applies, where an *insurance intermediary* arranges for a *customer* to enter into a *non-investment insurance contract* (including at *renewal*), it must, before the conclusion of that contract, provide the *customer* with a statement that:

- (a) sets out the *customer's* demands and needs;
- (b) confirms whether or not the *insurance intermediary* has *personally recommended* that contract; and
- (c) where a *personal recommendation* has been made, explains the reasons for *personally recommending* that contract.

(2) The statement in (1) must reflect the complexity of the *contract of insurance* proposed.

(3) Unless (4) applies, the statement in (1) must be provided in a *durable medium*.

(4) An *insurance intermediary* may provide the statement in (1) orally if:

- (a) the *customer* requests it; or
- (b) the *customer* requires immediate cover;

but in both cases the *insurance intermediary* must provide the information in (1) immediately after the conclusion of the contract, in a *durable medium*.

ICOB 4.4.7R

An insurance intermediary that makes a personal recommendation to a customer must, if the customer acts on the personal recommendation by concluding the non-investment insurance contract with that insurance intermediary:

(a) unless ICOB 4.4.2 R(1)(b) applies, retain a copy of the statement required by ICOB 4.4.1 R(1); or

(b) if ICOB 4.4.2 R(1)(b) applies, make and retain, in a durable medium, a record of the reasons for the personal recommendation.

(2) Both the copy of the statement in (1)(a) and the record in (1)(b) must be retained for a minimum period of three years from the date on which the personal recommendation was made.

ICOB 5.3.1R Before the conclusion of a contract which is not a distance contract

If a *non-investment insurance contract* is not a *distance contract*, an *insurance intermediary* must, in good time before the conclusion of the contract:

(1) provide a *retail customer* with the following information in a *durable medium*:

(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); and

(2) draw the attention of the *retail customer* orally to the importance of reading the *policy summary*, and in particular the section of the *policy summary* on significant and unusual exclusions or limitations.

ICOB 5.5.14R Statement of price

A statement of price must include the following information:

(1) the total amount of the *premium* for the *non-investment insurance contract* or, if the *premium* cannot be indicated, the basis for the calculation of the *premium* enabling the *retail customer* to verify it;

(2) for *non-investment insurance contracts* of more than one year, details of the period for which the *premium* is valid, whether it will be reviewed at a certain time or at set periods and, if so, when it will be reviewed;

(3) *fees*, administrative charges and taxes payable by the *retail customer* via the *insurance intermediary* in addition to the *premium*. *Fees* and administrative charges include any interest payable on the *premium*, including where the *premium* is paid by way of a credit agreement taken out either for payment of the *premium* only or for the purpose of purchasing goods or services as well;

(4) a statement identifying separately the possibility of any taxes not payable via the *insurance intermediary*;

(5) where the *non-investment insurance contract* is purchased in connection with other goods or services:

(a) the *premium* for the *non-investment insurance contract*, separately from all other prices in relation to the other goods or services, if an additional price is charged; and

(b) whether purchase of the *non-investment insurance contract* is a requirement of purchasing the other goods or services or not; and

(6) the total price to be paid by the *retail customer* for the *non-investment insurance contract*.