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## **FINAL NOTICE**

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**To:** **Alsford Page & Gems Limited**

**FRN:** **313489**

**Address:** **75 King William Street, London EC4N 7BE**

**Date:** **20 April 2021**

### **1. ACTION**

- 1.1. For the reasons given in this Final Notice, the Financial Conduct Authority (“the Authority”) hereby publishes a statement, pursuant to section 205 of the Financial Services and Markets Act 2000 (“the Act”), that Alsford Page & Gems Limited (“APG”) contravened regulatory requirements.
- 1.2. The serious failings in this case warrant a substantial financial penalty. APG has provided verifiable evidence that payment of such a penalty would have caused the firm serious financial hardship. Had it not been for this, the Authority would have imposed a financial penalty of £670,600 on APG.
- 1.3. APG agreed to resolve these matters. As part of the resolution, APG has agreed to make a payment of restitution of £399,902 to be distributed to affected customers. This amount represents the brokerage fees APG made selling extended warranty insurance products. Given APG is not in a position to make

this payment, APG's current ultimate parent, PSC Insurance Group Limited, has voluntarily agreed to fund it.

- 1.4. The mechanism by which APG's payment of restitution will be made is summarised in Annex C to this Notice.
- 1.5. The public censure will be issued on 20 April 2021 and will take the form of this Final Notice, which will be published on the Authority's website.

## **2. SUMMARY OF REASONS**

- 2.1. APG diversified its business in 2013 into selling extended warranty insurance products to retail customers via six appointed representatives ("ARs"). This was a departure from its core business and expertise. APG did not sufficiently consider or address the additional conduct risks associated with its new business or customer base. The systems and controls put in place for its new business were wholly inadequate and APG's oversight of the ARs was limited and ineffective.
- 2.2. The consequence of this was that APG had no assurance that its customers were being treated fairly or being sold products they understood and which met their needs. It also meant that APG had no effective controls in place to identify and protect vulnerable customers who may have needed additional care and protection in their interaction with sales agents.
- 2.3. Between 1 February 2013 and 21 March 2016 ("the Relevant Period"), in its role as principal to six ARs, APG breached Principle 3 (management and control) and Principle 6 (customers' interests) of the Authority's Principles for Businesses ("the Principles").
- 2.4. The Authority notes that APG's current senior management were not in place during the Relevant Period and were not involved in the extended warranty insurance business at APG.

### **Breach of Principle 3**

- 2.5. It is essential that a principal firm has in place robust controls and oversight over its ARs. A principal is responsible for how its ARs interact with customers. Inadequate controls and a lack of risk-based oversight can lead to an increased

risk of poor customer outcomes. Where principals have appropriate monitoring and adequate resources to perform this oversight, it is more likely they will identify issues at their ARs which could lead to customers being treated unfairly and ensure that, if there are, these issues are properly remediated and any unfairness remedied. This was not the case with APG.

2.6. During the Relevant Period, APG failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems in relation to its ARs. This was for the following reasons:

1. it did not properly assess the adequacy of its resources prior to entering into the extended warranty business to determine whether it had the skill and capacity to effectively monitor the ARs;
2. the monitoring programme in place for the ARs was inadequate and ineffective. It was in no way risk based and was not tailored for each AR. Instead, a 'one size fits all' approach was taken across the AR network. The programme overwhelmingly relied on the ARs monitoring themselves with little input or challenge from APG, meaning that APG was unaware if customers were treated fairly;
3. good quality management information ("MI") was essential for adequate oversight of the ARs. APG failed to properly consider conduct risk in the reporting requirements it placed on its ARs. APG also failed to use the MI that was generated to assess whether its customers were treated fairly and to ensure conduct risk was appropriately identified and managed; and
4. there was a lack of oversight and challenge from APG's second line of defence (whose job it should have been to ensure sales agents complied with required processes and regulatory rules and requirements) and there was no proper third line of defence (i.e. an independent function responsible for assessing risks across the AR business and providing challenge to the second line of defence and to sales agents). Where there was challenge from the second line, this was ineffective and did not result in any change to the level and capability of the oversight of the ARs or to the ARs' performance.

## **Breach of Principle 6**

2.7. During the Relevant Period, APG failed to pay due regard to the interests of its customers and to treat them fairly. APG did not sufficiently consider the information needs of its customers and ensure that they were given timely, appropriate and clear information about the policies sold by the ARs. APG's customers may have suffered detriment as a result of not being in a position to make informed decisions to purchase cover or through purchasing cover which met their needs. This was for the following reasons:

1. the call scripts that APG mandated its ARs use and the requirements for using them were not of sufficient quality to ensure that sales calls were clear, fair and not misleading;
2. important information about policies was not always provided or not provided in good time. This included:
  - a) failure to confirm customers were eligible for the policy;
  - b) failure to communicate product benefits and exclusions;
  - c) failure to obtain customer consent to proceed on a limited information basis;
  - d) payment details being taken before necessary disclosure was communicated; and
  - e) failure to communicate all available payment options.
3. there was also a lack of adherence to the call scripts by the ARs. This was not identified or corrected as a result of ineffective call monitoring by the ARs and a complete lack of effective call monitoring and oversight by APG;
4. APG failed to ensure that its ARs adopted fair sales practices, resulting in some customers purchasing insurance policies which they did not fully understand, or could not afford, or did not need; and
5. APG failed to ensure that its ARs identified and acted appropriately upon signals of potential vulnerability in customers, resulting in there being an increased risk of mis-selling insurance policies to vulnerable customers.

- 2.8. The Authority considers APG's failings to be serious because the breaches caused a significant risk of customer detriment.
- 2.9. The Authority has therefore imposed a censure on APG as a result of its contraventions of Principles 3 and 6. Had APG not agreed to pay restitution, the Authority would have imposed a requirement on APG to do so using its powers pursuant to section 384 of the Act.

### **3. DEFINITIONS**

- 3.1. The definitions below are used in this Notice:

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

"APG" means Alsford Page & Gems Limited;

"AR" means appointed representative;

"the Authority" means the Financial Conduct Authority;

"Board" means the Board of Directors of APG;

"ICOBS" means the Authority's Insurance Conduct of Business Sourcebook, within the Authority's Handbook;

"MI" means management information;

"Skilled Person" means the third-party appointed to produce the Skilled Person's Report;

"the Skilled Person's Report" means the report produced by the Skilled Person (as further explained at paragraph 4.31 to 4.36) pursuant to the Skilled Person's appointment under section 166 of the Act;

"Principal" means an authorised firm which permits its AR(s) to carry on regulated activities under its Part 4A permission, given by the Authority under Part 4A of the Act, to carry on certain regulated activities;

“the Principles” means the Authority’s Principles for Businesses, within the Authority’s Handbook;

“the Relevant Period” means 1 February 2013 to 21 March 2016;

“TCF” means treating customers fairly;

“Thematic Review” means the Thematic Review report published on 22 July 2016 by the Authority, titled *Principals and their appointed representatives in the general insurance sector*; and

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

#### **4. FACTS AND MATTERS**

##### **Background**

- 4.1. APG’s core business is wholesale and reinsurance broking within the Lloyd’s of London insurance market. This is a specialised field. APG advises on and arranges insurance for insurers looking to offset their risks or to find cover for other intermediaries. As part of this business, APG does not sell products to the general public or deal directly with the party ultimately insured. Instead, its clients are sophisticated counterparties with a detailed understanding of the insurance market and applicable regulations. Accordingly, the risk of client detriment due to a product not being suitable or the client not understanding it is very low.
- 4.2. APG decided to diversify away from its core business and expanded into a new area of selling and administering extended warranty insurance directly to retail customers through a network of six ARs.
- 4.3. This new area of business presented a very different risk profile to APG’s core business as it meant that APG was responsible for the fair treatment of retail personal lines customers. This meant providing insurance cover to individuals against loss resulting from property, in this instance items such as household appliances, satellite and television equipment. Prospective customers for the extended warranty business were less financially sophisticated than the professional clients APG usually dealt with. As a result, there was an increased risk when dealing with these customers than was present in APG’s core business.

There was a greater responsibility on APG to ensure that the products sold met customers' needs and that customers understood what they were purchasing.

### **Principal/AR relationship**

- 4.4. During the Relevant Period, APG acted as principal to six ARs. Agreements with the ARs were entered into between April 2013 and September 2014, before the ARs started selling extended warranty insurance to the public.
- 4.5. As the principal firm, APG was responsible for overseeing the ARs and was accountable for what the ARs did. In its agreements with each of the ARs, APG specified the type of business that the ARs were permitted to carry out and its expectations of them. Although the ARs were the point of contact for customers on a day-to-day basis, APG was ultimately responsible for how its AR network interacted with those customers and their fair treatment. In the AR relationships, it was APG as principal that was authorised and regulated by the Authority and not the ARs. Where the ARs were conducting activities that were regulated by the Authority, they were doing so on behalf of APG.

### **The extended warranty business**

- 4.6. The products sold by APG through the ARs were extended warranty policies which provided cover in addition to a manufacturer's or retailer's warranties in respect of household items such as TV and satellite equipment. During the Relevant Period, the product range increased to include home emergency cover, boiler breakdown and kitchen appliance cover.
- 4.7. The AR business model operated by APG was predominantly to generate sales through ARs cold-calling members of the public to offer extended warranty products. Customers were either new to APG (i.e. they did not hold policies with them) or were renewals (i.e. where they already held a warranty with APG). For new business, individuals were contacted using call lists acquired by the ARs. The extended warranty policies were also sold via mail application forms and internet sales.
- 4.8. The ARs were the point of contact with customers and were responsible for arranging payment to APG, issuing the policies and dealing with claims.

## **Risks associated with the extended warranty business**

- 4.9. The move into retail personal lines business by APG carried a different type of risk exposure for APG as it would be responsible for sales of insurance directly to members of the public. The target market included vulnerable and elderly customers as it focused on people who were at home during the day. This customer base had a different level of financial capability to APG's existing customers and greater consideration of customer ability to access and understand information about products was required. There was a risk of detriment through customers: (i) not understanding the coverage provided and the exclusions built into the policies; (ii) not being given enough information to make an informed decision to purchase; and (iii) not being given appropriate information. There was also a risk that potentially vulnerable customers would not be identified and treated fairly through appropriate adjustments to the sales process.
- 4.10. Although acknowledging that the new business posed a different risk level to its core business, and would involve selling to potentially vulnerable members of the public, APG did not clearly define the associated conduct risks and took only limited actions to understand and address the risks the new business posed or to consider the different requirements of its new prospective customer base.
- 4.11. APG considered that the risks posed by selling extended warranty products to the public were reduced as it assessed the products to be sold as relatively simple. This was on the basis that: (i) extended warranty cover was not new to the market; (ii) other firms were selling similar warranties; and (iii) there was a clear market to sell to and the cost of the products was low. APG considered an important part of its control framework to be that the products were easily understood with limited exclusions. APG's assessment of the products came from the personal experience of some of its staff (who were insurance professionals with experience of financial services and products) with extended warranty products. However, APG failed to consider the information needs and understanding of its customers who were not, in the vast majority of cases, insurance professionals and had different information needs.
- 4.12. Throughout the Relevant Period, APG did not have a clearly defined risk appetite in respect of its ARs and the extended warranty business. Although APG acknowledged that the extended warranty business carried a different level of risk to its core business, it failed to examine this in more detail or consider each of

the possible risks and set tolerances for each. Had APG done this, the controls and oversight over the ARs could have been appropriately tailored to risks and the firm's appetite for each.

- 4.13. APG did have a risk register and this was reviewed on a monthly basis by the Board. However, within the risk register there were only two potential risks associated with the extended warranty business. These were that "*the [ARs] contract has expired*" and "*the AR is working outside the contract agreement*", neither of which adequately covered conduct risk. There was no consideration within the risk register of the additional conduct risks that APG was taking responsibility for through selling products directly to the public, including the risk of policies being mis-sold or the consideration of the additional needs of vulnerable customers. The plan to manage the risks that had been identified was to be reviewed twice a year and included a review of "*agreement conditions, PI cover, files and policies*". However, there was no evidence of such a review taking place during the Relevant Period and no specific conduct risks relevant to the extended warranty business were added to the risk register at any point.

#### **Control and oversight of ARs**

- 4.14. As principal, APG should have set its expectations for how its ARs would operate. However, the AR agreements did not clearly articulate the oversight role that APG would play. Instead, the agreements simply listed the reporting responsibilities of the ARs and required the ARs to provide access to their premises if requested by APG. The agreements placed the responsibility for conduct risk on the ARs requiring each AR to ensure sales agents adhere to a script produced by APG and that customers "*have all the information that he needs at the appropriate time to make an informed decision*". However, as principal, APG was ultimately responsible for this and could not delegate it to the ARs.
- 4.15. Once the ARs had signed agreements with APG, they were provided with copies of documents to govern interactions between them and customers. This included policy wordings, call scripts, key facts documents, policy certificates and terms of business between the AR and the customer.

### Call scripts

- 4.16. APG provided the ARs with scripts to be used in calls by sales agents to prospective customers. The call scripts provided a template for the sales agent at the AR to follow in making calls to the customer.
- 4.17. Call scripts, provided they are fair, clear and not misleading and are carefully and clearly followed by sales agents, are a useful tool to help ensure that customers are given the information they need when deciding whether to purchase a product. If customers are not provided with relevant information about a product during a sales call, or are provided with inaccurate or wrong information, they risk being misinformed and the potential for customer detriment increases as the customer may be buying a product which is not suitable for them or which they do not need or want. By ensuring that the script complies with regulatory requirements, including ICOBS (see paragraphs 4.37 to 4.40 below), and that sales agents adhere to the script, a principal can take comfort that risk of customer detriment is reduced.
- 4.18. APG relied on the sales to customers being scripted as a key control for mitigating the risks the extended warranty business posed. Unfortunately, the scripts were deficient in several key areas and were not sufficient to consistently ensure that calls were clear, fair and not misleading.
- 4.19. The scripts contained in red text mandatory insurance and compliance statements. A common phrase used by the ARs was *"If it's in red, it must be said"*. As part of the Authority's review of a sample of 150 calls (see paragraphs 4.37 to 4.42 below), it was found that the red text was not fully adhered to in any of the calls reviewed, demonstrating that this control was wholly inadequate. Further, the inference that can be drawn from the statement *"if it's in red, it must be said"* is that it was acceptable to make deviations to the wording in other parts of the script and to make additional statements not in the script. As part of the Authority's review of calls, deviations from the non-red parts of the scripts were commonplace throughout the calls reviewed. This gave rise to an increased potential for customer detriment.
- 4.20. The scripts also failed to prompt sales agents at any point to ask the existing customer fundamental eligibility questions including whether they already had insurance cover in place. In the event that a customer stated they had already

held cover with another insurance provider, there was no provision in the scripts that the call should be ended even though having existing cover would mean that the product being sold did not meet the customer's needs as it was not required. By continuing the calls, there was an increased risk that a sales agent might apply pressure or provide misleading information to the customer in order to persuade the customer to buy further, unnecessary, duplicate cover, or cancel existing cover, thereby treating the customer unfairly. In the calls reviewed by the Authority, eight instances where the customer disclosed that they had existing cover in place were identified. The agent proceeded to sell cover during these calls in any event, often advising the customer to cancel the cover they already held.

- 4.21. The call scripts did not consider the types of questions that were likely to be asked by customers and therefore did not cater for customer interaction and interventions. In the calls reviewed by the Authority, it is noted that when customers did ask questions or raised concerns, the sales agents in their responses often deviated into giving advice and/or inaccurate or misleading information which could have induced the customer to purchase a policy which did not meet their needs.

#### Monitoring of sales calls

- 4.22. The monitoring of sales calls is also an extremely useful form of oversight as, if done correctly, it tests the effectiveness of controls such as the use of call scripts in ensuring fair customer outcomes. It can also encourage positive behaviour from sales agents by assessing the way the sales agents interact with customers. This could include how the agent speaks to the customer, their tone and clarity, and whether the agent has identified an apparent vulnerability and adjusted their approach because of it.
- 4.23. APG did not monitor sales calls (save for brief periods during occasional site visits – see paragraph 4.79 below) and required its ARs to monitor their own calls. APG did not have any oversight of this control. The checklists used by the ARs were all different to each other and highly variable in terms of the quality control they may have provided. Three of the five checklists reviewed by the Authority did not provide adequate quality control (see paragraphs 4.54 to 4.57 below).

## MI

- 4.24. The results of the call monitoring by the ARs were included in monthly compliance monitoring reports the ARs were required to submit to APG. The reports included copies of each AR's breaches log. The breaches log was intended to capture all instances where the AR had identified, during each month's call monitoring, that the call script had not been strictly adhered to and outlined any training or correction needs.
- 4.25. The ARs were also required to report to APG with a breakdown of its sales, claims, complaints and cancellations by policy each month.
- 4.26. The MI that was generated, and APG's use of that MI, was flawed in a number of material respects which rendered it of limited use to APG in the assessment of conduct risk. This is discussed in more detail at paragraphs 4.60 to 4.74 below.

## Visits to ARs

- 4.27. APG conducted occasional site visits to its ARs. These were on average twice a year and were an attempt to assess whether the ARs were operating as expected by APG. These site visits were regarded as an important control by APG but were poorly devised and ineffective. This is discussed in more detail at paragraphs 4.75 to 4.80 below.

## **Intervention by the Authority**

- 4.28. APG was included as part of the Authority's 2016 Thematic Review into the oversight of ARs in the general insurance sector. The Thematic Review looked at 14 principals and identified a number of concerns in relation to how principal firms oversaw and managed ARs. The review set out three main areas of concern: (i) business models and risk management; (ii) governance and oversight; and (iii) customer outcomes.
- 4.29. Through its review work, the Authority identified serious issues with APG's approach to risk management and oversight of its ARs. Specifically, the Authority had concerns about the adequacy of APG's systems and controls in terms of monitoring the activities of the ARs. In addition to this, the Authority had concerns

regarding the sales processes used by APG's ARs and it was considered that customer detriment may have occurred as a result.

- 4.30. Following the Thematic Review, as a result of the serious issues identified, the Authority requested that APG voluntarily vary the permissions it held which determined the scope of regulated activities it could carry out. On 21 March 2016, APG signed an agreement which prevented it from taking on any new ARs and required the cessation of all sales activities by the six established ARs with immediate effect.
- 4.31. In April 2016, the Authority required APG to appoint an independent Skilled Person to produce a report on APG's extended warranty business. The scope of the report was to review the effectiveness of APG's oversight and monitoring of the six ARs in the period from 1 January 2015 to 22 March 2016 and to review the appropriateness of the sales processes and practices used by the ARs.
- 4.32. On 30 May 2016, APG completely withdrew from the extended warranty business, severing its ties with the ARs, and appointed an administrator and claims handler to deal with the extant customer policies.
- 4.33. The Skilled Person's review was completed in October 2016 and a report was produced. The Skilled Person found that APG's governance, oversight monitoring and control environment, whilst not entirely lacking, was not appropriate or effective for APG's diversification into the retail personal lines business. This was a result of a lack of formality and rigour in APG's oversight of its ARs which compromised the firm's ability to evidence robust control and risk management of its ARs.
- 4.34. The Skilled Person found that APG did not have sufficient experience of the regulatory expectations of the extended warranty market, either within the business or its key control functions, to robustly challenge the performance of the ARs from a regulatory perspective.
- 4.35. As part of its review, the Skilled Person listened to 150 recordings of calls which had resulted in sales, made up of 25 calls made by each AR. As APG relied on its call scripts as a key control in respect of its ARs, in reviewing the calls the Skilled Person focused on analysing whether the purpose of the call and who was calling was clear, whether the customer purchased a product they understood and

whether the customer was able to make an informed decision to purchase the product. The Authority has also subsequently listened to and assessed each of these 150 calls.

- 4.36. The results of the exercise gave rise to significant and very serious concerns. From its review of 150 sales calls, the Skilled Person found that in 90% (135/150) of the calls there was a high risk that customers purchased a product that they did not understand or did not need. In those calls, the sales agents materially deviated from what was required to be said by the call scripts and, on the basis of what the customer was told, there was a high risk that the product had been mis-sold and that the customer either:
1. did not understand and/or need the product;
  2. was not clear about what was and was not covered under the policy;
  3. did not make an informed decision to purchase; or
  4. was not treated fairly and provided with appropriate information.

#### **The Authority's review of calls**

- 4.37. As stated above, the Authority conducted its own review of the 150 calls listened to and reviewed by the Skilled Person. The Authority has found that only 2% (3/150) of the calls reviewed were fully compliant with the ICOBS rules. ICOBS is a part of the Authority's Handbook and sets out the rules that firms selling insurance must follow. The overall aim of ICOBS is to ensure that a firm treats its customers fairly and that customers are given clear, fair information when sold insurance. The rules contain requirements about what customers should be told as part of the sale of insurance. This is to ensure that customers are given the information they need, at the right time, to make an informed decision about whether to purchase an insurance policy.
- 4.38. Of the 98% (147/150) of calls which were not compliant with the ICOBS rules, the Authority considers that 90% resulted in potential customer detriment. Of this, 20 (13%) are considered to have resulted in clear customer detriment. The remaining 8% of calls which were not compliant with ICOBS are considered unlikely to have resulted in customer detriment.

- 4.39. APG's non-compliance with ICOBS rules was caused by information not being provided by sales agents to the customer at the right time or not being provided at all. Specifically, the calls:
1. failed to check that the customer was eligible for the cover;
  2. took payment from the customer before the necessary information to allow the customer to make a decision had been given;
  3. failed to inform the customer of the available payment options; and/or
  4. failed to obtain customer consent to provide abbreviated rather than full distance marketing information.
- 4.40. At Annex B to this Notice are examples found in the Authority's review of calls of how sales agents treated customers together with an outline of the key regulatory failings.
- 4.41. In the majority of cases where unacceptable sales practices were identified, this was due to sales agents deviating from the call scripts. However, unacceptable sales practices also occurred when call scripts were followed due to the flawed design of the scripts, the guidance given on how to use them, and because of the presence of misleading statements within the scripts (see above at paragraphs 4.16 to 4.21).
- 4.42. There was a clear risk of customer detriment in the calls sampled. The customers were not given the information they needed and may have purchased a product which did not meet their needs.

#### **Systems and controls weaknesses**

- 4.43. Principal firms are fully responsible for the conduct of their ARs. Robust oversight and controls are critical to ensuring compliance with the regulatory regime and mitigating conduct risk. Inadequate oversight and controls can increase the risk of customer detriment if customers are sold products unsuitable for their needs, not given information required to make an informed decision, or if poor sales practices are followed by sales agents.
- 4.44. APG should have had in place a risk based monitoring programme for its ARs commensurate with the level of risk that each AR represented. This was necessary to mitigate conduct risk. The risk based monitoring programme should have

considered the terms of the AR agreement, ongoing suitability and solvency of the AR, the product sold, the sales method, sales volumes, the target market and the number and experience of sales agents involved.

- 4.45. Where a principal has appropriate and effective risk based monitoring in place coupled with adequate resources to perform the oversight, it is more likely that it will identify issues at its ARs which, if undetected, could lead to customers being treated unfairly. Effective monitoring should also identify any customer detriment that has occurred and allow for steps to be taken to ensure that such incidents are properly remediated and not repeated.

#### Policies and procedures

- 4.46. The AR agreement for each AR outlined the minimum compliance procedures that the AR should have adhered to. However, the requirements contained in each AR agreement were limited and included only: (i) a summary of the items to be covered in the AR's reporting to APG each month (as described at paragraphs 4.24 to 4.25 above); (ii) a requirement to adhere to the sales scripts provided by APG; and (iii) a statement that all documents to be issued to customers must first be agreed by APG.
- 4.47. APG did not produce a suite of policies and procedures unique to the extended warranty business to be used by ARs to ensure they properly followed the correct compliant process when selling to members of the public. Instead, APG intended that the policies and procedures it used internally as part of its core wholesale insurance business would also be applicable to its ARs. This should have meant the ARs would align themselves to APG's internal control framework through following its policies and procedures (although is arguable whether there is any merit in aligning an AR to a policy designed for a different business market). However, it transpired that in practice very few of these policies and procedures were in fact provided to the ARs and many would have been of limited use to them in any event.
- 4.48. An audit of one of APG's ARs, completed by an insurer underwriting the extended warranty products sold, raised as an issue that policies for financial crime and TCF were not in place at the AR and recommended that they should be produced. These are two of the most fundamental areas for procedures to ensure that the ARs meet regulatory requirements. The report, which was provided to APG, noted

that APG should devise policies for the AR to follow. However, no policies were produced by APG at any time to cover these areas, nor were they produced by the AR, and the matter was not followed-up on by APG (and no other ARs had such policies either).

- 4.49. APG held three AR forums over the Relevant Period. These were intended to supplement the requirements placed on the ARs in the AR agreements. However, limited policies and procedures were shared during these forums. Although there was discussion of the guidance issued by the Data & Marketing Association (an industry body which sets standards for UK and data marketing firms) in relation to vulnerable customers at the January 2015 AR forum, there was no follow-up of this despite the importance of stringent procedures being needed to ensure vulnerable customers were treated fairly.
- 4.50. As a result of an absence of guidance from APG, there were no consistent policies and procedures followed by all the ARs which meant that there was a variance across the AR population in terms of their respective approach to regulatory compliance. This reduced APG's ability to influence and affect the ARs' conduct by ensuring that appropriate systems and controls were in place within the ARs and it served to increase the risk of potential customer detriment as a result.

#### Self-monitoring of calls by ARs

- 4.51. In order for call monitoring to be an effective tool for mitigating conduct risk, the review of a call needs to include measures by which conduct risks can be assessed and if issues are identified they need to be addressed and steps taken to ensure similar conduct is not widespread or repeated.
- 4.52. The primary control around APG's AR's sales and interaction with customers was supposed to be through the ARs monitoring their own sales calls. APG described this as an important part of its oversight of the ARs. However, APG had inadequate oversight of this control and did little to ensure that it provided effective risk management.
- 4.53. Very limited guidance was given by APG to ARs in terms of its expectations of what should be covered by the call monitoring. Each AR decided on its own approach to call monitoring, the numbers sampled, the areas monitored and the content of the checklist used. The purpose of the checklist should have been to

ensure each AR was monitoring its calls properly, identifying conduct issues, and addressing anything that went wrong. However, no standard checklist or criteria to be included in call monitoring was produced by APG for use by the ARs and each AR used a different checklist, of its own design, with a range of different criteria.

- 4.54. The Authority has reviewed the checklists used by five of the six ARs. Three of the five were not sufficient to provide an effective review of a customer call to determine whether the ARs' interaction with the customer was a fair one.
- 4.55. The specific issue of call script adherence was not considered at all in two of the AR checklists, despite adherence to call scripts being cited by APG as an important control. This meant that APG had no assurance from those two ARs' call monitoring that their call scripts had been followed and accordingly no assurance that the customer had been given the information that APG required they be provided with in order to make an informed decision on whether to purchase the product. Results from the Authority's call review showed that sales agents did not adhere fully to the script in any of the calls sampled.
- 4.56. In three of the five checklists reviewed by the Authority, consideration of the conduct of the agent was not sufficiently robust. This was also noted as an issue in a third-party audit of the sixth AR's checklist. In one of the checklists reviewed by the Authority, there was no consideration of the sales agent's behaviour or tone. In the other two, assessment of agent conduct during the sales call was very basic and in generalised terms. The checklists did not provide effective assurance as they lacked sufficiently detailed checks on the sales agent's behaviour.
- 4.57. Three of the checklists failed to include vital detail required to check whether the agent had provided important information to the customer to enable them to make an informed decision on the product or making clear the call was non-advised.
- 4.58. Where any issues were identified by the ARs through the call monitoring checklist review they were recorded in a breaches log. Recurring issues were identified by the ARs yet there was no analysis by APG (or anyone else) as to whether the issues formed part of a wider, more systemic problem. This meant that call monitoring by the ARs had limited utility, at best, for the three that did consider

call script adherence, serving only to identify where a particular sales call to a customer did not comply with the script rather than considering whether the AR's approach to customers meant they were being treated fairly.

- 4.59. APG did not check the call monitoring undertaken by ARs to determine if it was being done properly and it did not review the checklists produced. The ARs were allowed to monitor calls on their own terms without any oversight. The only insight APG had into the call monitoring activity by its ARs was the monthly compliance monitoring reports and breaches log. The compliance monitoring report only contained one question in respect of call monitoring, "*percentage of calls monitored and listened to*". This was not sufficient to give oversight of the call monitoring activity as it did not consider whether the call monitoring done was effective in identifying conduct risk issues.

#### Reporting by the ARs

- 4.60. Good quality MI was essential for APG to adequately execute oversight of its AR network. Strong conduct risk MI can be used to identify new and emerging risks to customer outcomes and to highlight potential issues before they crystallise into customer detriment. In addition to this, it can also identify where improvements are needed to existing processes. As principal, APG was responsible for how its ARs interacted with customers. The MI on complaints, cancellations, claims, and the compliance monitoring reports submitted by the ARs should have been used by APG to gain valuable insight into this through the reports themselves and observed trends in the data over time. However, APG did not use the MI it collected to provide effective oversight to its ARs or ensure that conduct risk was appropriately managed.

#### *Compliance monitoring reports*

- 4.61. As described above, the ARs were required under their agreements with APG to monitor the sales calls of their sales agents and submit compliance monitoring reports together with copies of their complaints log, breaches log and sales data each month. Compliance monitoring reports were considered by APG's Board. The intended purpose of the compliance monitoring reports was to provide oversight of the ARs between site visits.

- 4.62. The compliance monitoring reports were designed by APG and included a list of 15 questions to be completed by the ARs, which largely required yes or no answers. The questions were poorly designed and failed to identify or flag up conduct risks. As an oversight tool for assessing the regulatory compliance of the ARs, the reports were not fit for purpose.
- 4.63. In respect of one of the ARs, all the compliance monitoring reports submitted to APG in the Relevant Period stated that 100% of sales calls were monitored and in response to the question "*number of calls that did not comply with the script and action taken*" stated zero. This apparently perfect figure should have been a red flag to APG as it is a strong indication that the call monitoring and reports were not picking up issues. This is not even taking into account the fact that APG had itself noted issues with script compliance in respect of that AR in site visit notes where APG listened to calls. This clearly suggested issues with the AR's call monitoring as a control. This should have been picked up by APG through review of the compliance monitoring reports and consideration of its site visit findings had those been effective controls.
- 4.64. When the Authority reviewed the call recordings of the AR that had indicated it had followed the call scripts for every sale in the Relevant Period, a very different picture emerged. The Authority found that the call script had not been fully followed by sales agents at that AR in any of the 25 calls reviewed. Of the 25 calls monitored in respect of that AR, the Authority considers that all of them breached ICOBS rules, but this was not detected by the AR or APG. There was significant and material deviation in one call and moderate but material deviation in 13 calls. Overall, the Authority found there to be clear or potential customer detriment in 14 of 25 calls reviewed in respect of that AR. This was not detected by the AR or APG. A similar picture may be seen with the other ARs when comparing their reporting of call compliance issues in the compliance monitoring reports and the results of the call review by the Authority.

#### *Complaints*

- 4.65. APG's agreements with the ARs required all customer complaints made to the ARs to be referred to and handled by APG. However, in practice this requirement was not followed and complaints made against ARs were handled by the ARs themselves (the exception being the rare cases in which complaints were made directly to APG).

- 4.66. The ARs submitted a copy of their complaints logs to APG each month. These were reviewed in APG's monthly Board meetings. The logs set out a summary and outcome of the ARs' investigation into each complaint made by a customer. APG considered the complaints log to be a performance indicator for monitoring any potential issues within its AR population. However, complaints received by the ARs, and reported to APG via the AR's monthly complaint submissions, were not included in APG's own complaints log.
- 4.67. Despite APG's reliance on the ARs handling complaints, it did not provide any training or guidance to the ARs on how to do this. No complaints policy was provided to the ARs and limited feedback on the complaints logs submitted to APG was provided to the ARs. The third-party audit of one of the ARs referred to above (at paragraph 4.48 and 4.56) raised an issue that the AR was not recording all complaints correctly (instead of recording all complaints it was only recording expressions of dissatisfaction and therefore under recording complaints). The report recommended that all complaints be recorded and reviewed to assess if the AR was treating customers fairly and to analyse trends and patterns, but APG did not ensure the issue was addressed.
- 4.68. The reasons for complaints as well as the volume of complaints are important metrics for analysing conduct risk. The volume of complaints can provide an approximate idea of whether there are issues leading to potential customer detriment. However, it is not enough to rely only on the volume of complaints as an indicator of customer fair treatment. The fact that a large proportion of its customer base was likely to be vulnerable, should have prompted APG to look beyond complaints volumes. Where the customer base is likely to include a large number of vulnerable customers, as APG's did, it is not enough to only consider the volume of complaints as customers may not be able to complain due to their vulnerability. For that reason, it is always important to also look at the reasons for complaints and carry out root cause analysis to understand if an issue flagged in one complaint actually points to a wider more systemic problem. Although APG's written policy required that a "*root cause analysis is undertaken*" into complaints, no root cause analysis was undertaken by APG into the complaints received from the ARs.

### *Cancellations*

- 4.69. The rate of cancellation of policies after purchase is a useful metric as it can be an indicator that policies are potentially being mis-sold. It is important to understand the reasons for cancellation as these provide insight into the potential for customer detriment. Reasons for cancellation may flag that: (i) customers are not being provided with the information they need; (ii) the product is not considered good value; (iii) undue pressure is being placed on customers to secure sales; or (iv) vulnerable customers are not being treated appropriately. Like complaints MI, it is important that there is root cause analysis of cancellations and appropriate adjustments made to processes and controls, if necessary, based on the findings of that review.
- 4.70. APG received monthly reports from its ARs on cancellations of policies. These reports included a breakdown of all the policies that had been cancelled in a particular month including the reason why the policy had been cancelled. Cancellation reasons included customers saying that they were already covered by other insurance policies or in some cases because the customer suffered from a vulnerability such as dementia or Alzheimer's.
- 4.71. Although data on the reasons for cancellation was collected by APG, it was not used or considered by APG in any way. There was no analysis by APG to look at the reasons for cancellation and the data did not form part of the MI reported to the forums within APG responsible for the oversight of the ARs. Looking at the data for the year to August 2015 for one of the ARs showed that two of the main reasons why customers cancelled their policies was either that they were already covered elsewhere or that they did not want the policy. This accounted for 38% of the cancellations. This raises concerns about whether the sales agents at that AR were giving customers the information they needed to make an informed decision on whether to purchase a policy. These concerns can be seen in the Authority's review of calls, where sales agents in 12/25 (48%) calls omitted information in relation to exclusions or eligibility. There were also two calls by that AR where the customer disclosed existing cover. In one call, there was a clear customer detriment in the sale of the policy, where an obviously vulnerable individual was sold cover despite telling the agent they already had cover.

## *TCF/Claims*

- 4.72. Claims MI is another important indicator for conduct risk. Through analysis of the percentage of successful claims, it is possible to consider the value for money of the product to customers. High declination rates may indicate that the product is not meeting customer needs. As with the other types of MI reporting, it is important that the data is not only collected but also analysed to understand its conduct risk implications.
- 4.73. Claims data was collected by APG. This was submitted by the ARs each quarter and showed the total number of claims received, the number that were open still at the end of the quarter and the number that had been rejected. From the fourth quarter of 2015, the ARs were required to submit what was described as a “*quarterly general TCF report*” by detailing the live policies in the quarter, the claims declination rate, customer cancellation rate, and complaints ratio for the quarter. This data was collected by APG but was not used to assess the conduct risk posed by the ARs or to inform a risk based management system for their oversight. The data was simply consolidated by APG and submitted to the insurer underwriting the policies. In reality, it served as a management tool to support the sales business and was not a control to understand TCF and conduct risk issues.
- 4.74. The Authority’s review of this MI found a significant variance in claims declination rates across the ARs. This may suggest that claims were not being dealt with fairly by some of the ARs or that customers handled by them were not purchasing policies that met their needs. For example, in one quarter, the declination rates for APG’s biggest AR doubled versus the previous quarter and were almost ten times as high as another of its ARs. The majority of additional declinations were as a result of claims being rejected because they were not covered under the policy. This raises clear concerns about the sales practices of the AR and suggests that customers were not being sold policies that met their needs. However, this was not noted or investigated by APG and there was no additional monitoring of that AR.

### **Site visits by APG**

- 4.75. APG visited each of its ARs in an attempt to assess whether they were operating in compliance with the agreements. APG placed a high reliance on the visits as a

means of providing significant oversight of its ARs. Visits were considered a helpful addition to the control framework because they allowed APG an opportunity to see the ARs in their own environment and to sit with the sales agents as they made sales. However, the site visits were of little value as a control and did not provide effective oversight or monitoring of the conduct of the ARs.

- 4.76. The frequency of site visits was not risk based. Each AR was visited on average twice a year with no increase in the frequency of visits even if risk issues had been identified. The third-party audit referred to at paragraphs 4.48, 4.56 and 4.67 above found several conduct risk issues at one of the ARs including issues with call monitoring, complaints recording, cancellations recording, senior management knowledge of TCF, call scripts and MI. The issues clearly suggested an increased risk of poor customer outcomes but APG took minimal action to manage that risk. There was no increase in frequency of site visits to the AR following the audit report.
- 4.77. When the Authority assessed 25 calls made by the AR as part of its review work, it found that every call breached the ICOBS rules, including eight where there was significant and material deviation with clear customer detriment and another eight where there was moderate but material deviation from the script and where there may have been potential customer detriment.
- 4.78. There was also an absence of a risk based approach in deciding on areas of focus for the site visits. Each visit would last a day and would broadly cover the same agenda items for each AR. Following the third-party audit in September 2014, a TCF section was added to the agenda for visits in April 2015 with sub-items for training, cancellations, complaints log, customer queries and conduct risk. However, in practice consideration of TCF was brief at best with no follow-up of issues found.
- 4.79. During the visits, APG would listen to a small number of sales calls. APG considered this to be an important part of its oversight of the ARs. However, it was not an effective control. It consisted of listening to five or six recorded calls and also sitting amongst the AR sales agents listening to live calls for approximately an hour. APG would listen to somewhere in the region of 60 calls in total during each site visit. Considering that each AR made tens of thousands of calls each month, APG only listened to a tiny proportion as part of its twice-

yearly site visits. The level of call monitoring done by APG was so small that it severely limited the value of this as a control.

- 4.80. The value of the exercise was further decreased by the way in which APG approached those calls that it did listen to. It was informally done, with no checklist or guide for the review and no record was maintained. When feedback was provided to the ARs as part of this, it was often limited.

### **Absence of a three lines of defence risk framework**

#### The model

- 4.81. APG did not apply an appropriate three lines of defence risk management framework to its extended warranty business. As a result, it failed to put in place effective monitoring and controls capable of managing and mitigating conduct risk.
- 4.82. The three lines of defence risk management framework is a model for governing the lines of responsibility for risk management and control activities. The model stipulates that the first line of defence in terms of risk management is the commercial business, in this case the ARs selling the products. The second line of defence is usually a business area and/or committee that is not engaged in commercial sales and instead helps develop and monitor the first line of defence risk controls. In this case, the second line of defence within APG had a very limited role. The third line of defence sits above the other two lines and should provide independent review, challenge and assurance on the effectiveness of both. This is usually an Internal Audit function. In this case, APG did not task its Internal Audit, or an equivalent, to the work of the ARs and the extended warranty business and instead treated its Board as the third line. This was an inadequate substitute as the Board was not independent of the commercial business.

#### First and second line

- 4.83. APG's application of the model was fundamentally flawed and there was a lack of consistent and rigorous implementation of it which meant that APG did not deliver effective risk management. Whilst the first line of defence ARs did carry out self-monitoring and submitted reports to APG, there is little evidence that APG did any more than consolidate the data to submit it onwards to the insurer underwriting

the policies and to the Board (who also participated in occasional site visits to the ARs).

- 4.84. The weaknesses in the second line of defence at APG were substantial. There was no written risk management framework for the extended warranty business. This contributed to a lack of accountability and ownership of key oversight tasks by the second line resulting in weak process and control design for monitoring the ARs and the absence of a risk based approach.
- 4.85. There is very little evidence that the second line of defence checked the outputs or provided formal oversight and challenge on the monitoring conducted by the ARs. The second line of defence failed to give any direction on how site visits to the ARs should be conducted and what time should be spent on in terms of considering a risk based approach. The failure to provide advice and challenge on the implementation of more effective controls was due in chief to an over reliance on a single staff member's prior experience of working with ARs and the extended warranty sector. This was exacerbated by a lack of experience in the retail insurance sector by the second line of defence.
- 4.86. APG failed to ensure that its second line of defence was adequately resourced and failed to make changes to this area which became necessary when it moved into the extended warranty business. As such, it was incapable of managing and mitigating the risks that there were in this business.
- 4.87. A committee was set up in January 2014 to regularly review the governance structure across APG. Its responsibilities included: (i) review of policies and procedures; (ii) allocation of responsibilities with matched skills; and (iii) review of the AR controls.
- 4.88. The committee should have met quarterly but only met five times out of a possible nine over the Relevant Period. There was only superficial and limited discussion of AR controls as recorded in the minutes and the committee provided little effective challenge or oversight of the effectiveness of the AR controls. A more robust, challenging and engaged forum was required if the second line was to be effective.

### Third line

- 4.89. The Board retained ultimate responsibility for ensuring adequate systems of internal control and reporting. In its purported role as third line of defence, the Board lacked independence from commercial concerns. This is reflected in the fact that the Board minutes indicate that it spent limited time discussing potential risks and issues with the ARs and most of the discussion about them was commercial in nature.
- 4.90. The Board was not the appropriate function to serve in place of an independent third line such as Internal Audit. For example, APG considered site visits to ARs to be a key part of its risk management system for its ARs but the Board contribution to this was negligible. Summaries of site visits were reported to the Board but these were typically very brief in nature and did not provide the Board with any indication of the content of the visits or the nature of the issues identified. The occasional attendance of Board members at site visits appears to not have had real practical impact on how they were conducted and the Board members attended in a largely observational capacity.
- 4.91. In truth, there was no third line of defence in respect of the extended warranty business and APG's Internal Audit had no specific role with respect to the ARs and no audits or reviews of the business were carried out. The first and second lines of defence were left unchecked.

### **Effect of inadequate systems and controls on vulnerable customers**

- 4.92. As described above at paragraphs 4.43 to 4.80, one of the most serious consequence of APG having inadequate systems and controls in relation to the extended warranty business is that it had few, if any, ways of identifying whether customers were being treated fairly and if they were being sold products that met their needs or which they wanted. This failing is made worse by an absence of effective controls to identify and protect vulnerable customers who needed additional care and protection when dealing with sales agents.
- 4.93. There were no provisions in the call scripts that the call should be ended without proceeding to a sale if there were obvious indications that the customer was vulnerable. Although APG circulated guidance to the ARs on dealing with

vulnerable customers, there was no follow up from APG to ensure that the guidance had been understood and applied.

4.94. This weakness is apparent from the Authority's review of 150 sales calls. Within this, there were 64 calls where the Authority identified indications of customer vulnerability. This equates to 43% of the calls reviewed. Vulnerability indicators included:

- apparent confusion or memory problems on the part of the customer;
- difficulty with the customer hearing or understanding what the sales agent was saying;
- difficulty speaking, seeing and/or physical difficulty (for example, apparent when agents asked customers to check or find items in their home – such as when asked to fetch a bank card);
- financial difficulty, where the customer disclosed they did not have much money, could not afford the policy or had limited funds;
- having a carer, someone with power of attorney or a relative who handled the customer's affairs for them;
- the customer disclosing that they were worried about being "scammed" or having had previous issues with scams;
- the customer having recently suffered a bereavement; or
- the customer sounding very elderly or frail in addition to one or more of the above indicators.

4.95. In 59% (38/64) of these calls, the indicators were ignored by the sales agents and no adjustment was made to the sales process. Of the 20 calls where clear customer detriment was identified, 18 concerned customers who had shown vulnerability indicators. Examples of this can be seen in the following calls where there was clear customer detriment:

1. Customer A repeatedly said that they suffered from memory loss and that they would need their carer's assistance to look at the policy and decide if they wanted to proceed. The agent did not wait for the carer's assistance and instead proceeded to set up the policy and process payment;
2. Customer B was confused about why the sales agent had called them. Nonetheless, despite this confusion, the agent proceeded to sell cover for both satellite and television equipment despite the customer disclosing

faults with her equipment which would have made her ineligible to make a claim;

3. Customer C was clearly confused during the call and kept saying “no, no” before hanging up. The sales agent telephoned back and was heard saying to their colleagues “*I’m ringing him straight back, I’m not having that*” and proceeded to take payment while the customer continued to be confused and stumble over his words. The call was also poorly conducted, even if the customer was not vulnerable, as no disclosures were made and no terms and conditions or benefits and exclusions in relation to the policy were read out meaning that not only was the vulnerable customer pressured into buying the product, they did not have the information to understand the product, what was covered and not covered, and they would not have been able to make an informed decision about the renewal;
4. Customer D was also clearly vulnerable. They appeared to be elderly and slurred their words. The agent on the call did not appear to make any allowances for the customer’s vulnerability and told the customer to get a card for whichever account had money even though the customer told him that they had no money in the bank. The call was also poorly conducted even if the customer was not vulnerable as the benefits, exclusions and limitations of the policy were not disclosed despite the customer explicitly saying that they did not know what was covered under the policy;
5. Customer E was disabled and unable to check the details of their television in response to the agent’s questions about the make and model. The customer disclosed that they had existing cover in place for their television. This would have meant that the customer did not need cover from the AR. However, the agent advised the customer to cancel their policy with their existing provider claiming, without foundation, that their existing provider did not comply with the Authority’s regulations and the AR did. The call was also poorly conducted in any event because customer payment was taken before any benefits, exclusions and limitations of the policy were disclosed; and
6. Customer F had suffered a recent bereavement and struggled to read their card details. They struggled to answer the agent’s questions and were not able to provide very much information about their boiler other than that it

was over 20 years old. The agent did not mention exclusions and excesses which would have been relevant to a boiler of that age. This call was also poorly conducted in any event as payment was taken before any benefits, exclusions and limitations of the policy were disclosed. The disclosures that were made were incomplete.

### **Redress**

- 4.96. In light of its findings, the Skilled Person recommended that APG take immediate action to address the 135 customers where a high risk of mis-selling was identified. The Skilled Person recommended that APG undertake a pilot customer contact exercise in relation to the 150 customer calls sampled by the Skilled Person before moving onto a full remediation exercise if required. APG agreed to this approach.
- 4.97. APG consulted the Authority on its proposed approach to the pilot redress exercise. The Authority highlighted the importance of ensuring customer engagement in the redress process. Given the large proportion of customers who may have been vulnerable at the time of purchasing a policy, the Authority considered it appropriate that APG take a flexible and pragmatic approach to assessing whether customers were due redress. APG did not agree to all the recommendations made by the Authority as to the communications to be sent out to customers and the proposed redress approach to be taken but, as the Skilled Person recommended, appointed an independent third-party to advise and considered at Board level how it should proceed. It also agreed to take the concerns raised by the Authority into account in the pilot exercise to ensure that redress process was fair.
- 4.98. A pilot customer contact exercise was commenced by APG in October 2020. A report on the pilot and APG's plans for a full redress exercise were received by the Authority in early February 2021. The report stated that APG did not consider that widespread mis-selling had occurred and that APG would not carry out any further customer contact. The Authority's view is that the pilot redress exercise undertaken by APG was not adequate and placed a disproportionate burden of proof of harm on customers in light of the findings of the review of calls (see paragraphs 4.37 to 4.42).
- 4.99. APG has since, as part of resolution, agreed to pay restitution which is intended to compensate customers as far as possible, as quickly as possible.

## **5. FAILINGS**

- 5.1. The regulatory provisions relevant to this Notice are referred to in Annex A.
- 5.2. Based on the facts and matters above, APG breached Principles 3 and 6 as explained below.

### **Breach of Principle 3**

- 5.3. Principle 3 requires that a firm take reasonable care to ensure that it has organised its affairs responsibly and effectively, with adequate risk management systems.
- 5.4. During the Relevant Period, APG failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems in relation to its ARs and extended warranty business. APG had little experience of dealing with retail customers and its new business venture carried a greater conduct risk than its core business. APG was required to put in place systems and controls to enable it to effectively monitor its ARs, to establish appropriate risk based controls, with sufficient oversight from the outset of its move into the extended warranty business to ensure that customers were treated fairly.
- 5.5. The systems and controls in place at APG were wholly inadequate and meant that APG was unable to, and did not, identify or address potential poor customer outcomes. In particular, APG failed to:
1. properly consider the risk that the diversification of its business into retail personal lines may have posed. APG did not set a risk appetite for its extended warranty business and did not map its tolerance for risks to the controls and oversight it put in place;
  2. assess its controls and resources to ensure they were capable of effectively monitoring the ARs and to ensure compliance with regulatory obligations;
  3. create bespoke policies and procedures relevant to the extended warranty business and the risks present therein;

4. ensure that its ARs were aligned to its control framework and it did not provide the ARs with all of the policies and procedures it did have in place;
5. establish adequate controls and governance arrangements to effectively monitor the ARs;
6. put in place effective call monitoring by the ARs, in particular, it failed to:
  - a) take steps to effectively monitor calls, instead relying on self-monitoring by the ARs;
  - b) define and set out its expectations for what effective call monitoring should be;
  - c) check the results of the call monitoring done by the ARs to ensure that it was effective; and
  - d) analyse the results of call monitoring to identify and address common issues which meant that the same issues occurred multiple times;
7. give sufficient consideration to conduct risk in the MI it required its ARs to provide or use the MI it received from its ARs to understand the conduct risk posed by the ARs which would have informed APG's oversight;
8. consider the relative risks posed by its ARs when it did monitor them. In particular, APG failed to:
  - a) take a risk based approach to the frequency and content of site visits thereby rendering the site visits ineffective; and
  - b) use MI and previous site visits to inform the oversight and monitoring of the ARs; and
9. assess customer outcomes in relation to sales, complaints handling and claims handling to improve customer outcomes. In particular, APG failed to:
  - a) perform root cause analysis on complaints;
  - b) consider reasons for cancellation of policies from a conduct perspective; and
  - c) consider claims declination rates across each AR or reasons for declination from a conduct perspective.

## **Breach of Principle 6**

- 5.6. Principle 6 requires that a firm pay due regard to the interests of its customers and treats them fairly.
- 5.7. During the Relevant Period, APG failed to pay due regard to the interests of its customers and to treat them fairly. APG was responsible for ensuring that its ARs gave customers the information they needed to make informed decisions on whether to enter into a contract of insurance but they failed to put in place proper systems and controls to ensure this happened. In particular, APG failed to:
1. consider the information needs of its customers and how these differed from its existing client base in deciding to move into the extended warranty business;
  2. ensure that customers were given appropriate information about the policies sold, in good time and in a clear format, arising out of:
    - a) failure to ensure that calls were consistently clear, fair and not misleading due to providing inadequate call scripts and training on how to use them;
    - b) a lack of adherence to call scripts by the ARs. This was not identified as a result of ineffective call monitoring by the ARs and a lack of call monitoring by APG;
    - c) failure to confirm customers were eligible for the policy;
    - d) failure to communicate product benefits and exclusions;
    - e) failure to obtain customer consent to proceed on a limited information basis;
    - f) payment details being taken before necessary disclosure was communicated; and
    - g) failure to communicate all available payment options;
  3. ensure that its ARs identified and acted appropriately upon signals of potential customer vulnerability, resulting in there being an increased risk of mis-selling insurance policies to vulnerable customers; and

4. ensure that its ARs did not adopt unacceptable sales tactics, resulting in an increased risk of some customers purchasing insurance policies which they did not fully understand, or could not afford, or did not need.

## **6. SANCTION**

### **Financial penalty**

- 6.1. The Authority considers that a financial penalty of £958,100 (or £670,600 taking into account a 30% discount for resolving the matter in Stage 1) in respect of APG's breaches of Principles 3 and 6 during the Relevant Period is appropriate. However, APG has provided verifiable evidence that payment of such a penalty would cause the firm serious financial hardship. For that reason, the Authority hereby imposes a public censure in relation to APG.
- 6.2. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In respect of conduct occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

### **Step 1: disgorgement**

- 6.3. Pursuant to DEPP 6.5A.1G, at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this.
- 6.4. The Authority has not identified any financial benefit that APG derived directly from its breach.
- 6.5. Step 1 is therefore £0.

### **Step 2: the seriousness of the breach**

- 6.6. Pursuant to DEPP 6.5A.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm

or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.

6.7. The Authority considers that the revenue generated by APG is indicative of the harm or potential harm caused by its breach. The Authority has therefore determined a figure based on a percentage of APG's relevant revenue. APG's relevant revenue is the revenue derived by APG during the period of the breach. The period of APG's breach was from February 2013 to March 2016. The Authority considers APG's relevant revenue for this period to be £5,806,762.

6.8. In deciding on the percentage of the relevant revenue that forms the basis of the Step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:

Level 1 – 0%

Level 2 – 5%

Level 3 – 10%

Level 4 – 15%

Level 5 – 20%

6.9. The following factors reflect the impact and nature of the breach.

#### The impact of the breaches

1. The breaches had an effect on vulnerable people. APG's target market for the extended warranty products weighed heavily towards vulnerable and elderly customers as it focused on people who were at home during the day. However, the needs of potentially vulnerable customers were not given adequate consideration by APG and it failed to ensure that its ARs identified and acted appropriately upon signals of potential customer vulnerability. This resulted in there being a heightened risk of mis-selling insurance policies to vulnerable customers.
2. The ARs approach to customers and how they spoke and interacted with them evidenced a lack of care and a showed a basic disregard towards the

needs of those who may be vulnerable. The priority was to make sales and no thought was given to the distress and inconvenience this approach may have caused for customers and potential customers.

#### The nature of the breaches

1. The requirements of ICOBS should be a fundamental consideration in everything that those who are regulated to sell insurance do. APG's across the board inability to ensure compliance with these rules is startling and falls far below the standards expected of the industry.
2. The breaches were widespread and would have affected every retail customer who dealt with APG during the Relevant Period.
3. There were serious weaknesses in APG's governance, procedures, management systems and internal controls relating to a significant proportion of its business.

6.10. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly. DEPP 6.5A.2G(11) lists factors likely to be considered 'level 4 or 5 factors'. Of these, the Authority considers the following factors to be relevant:

1. the Authority's review of customer calls found a significant risk of customer detriment through customers either being mis-sold policies or purchasing a policy which did not meet their needs. The wide extent of non-compliance with ICOBS suggests that the risk of customer detriment was extremely high.
2. the breaches revealed serious weaknesses in APG's governance, procedures, management systems and internal controls relating to oversight of the ARs. APG did not adequately identify or manage the risk posed by its move into selling extended warranty insurance via a network of ARs to retail customers.

6.11. DEPP 6.5A.2G(12) lists factors likely to be considered 'level 1, 2 or 3 factors'. Of these, the Authority considers the following factors to be relevant:

1. the breaches were committed negligently.
- 6.12. Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 4 and so the Step 2 figure is 15% of £5,806,762.
- 6.13. Step 2 is therefore £871,014.30.

### **Step 3: mitigating and aggravating factors**

- 6.14. Pursuant to DEPP 6.5A.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.
- 6.15. The Authority considers that the following factors aggravate the breach:
1. The Authority published a Final Notice in 2013 in relation to Porta Verde Financial Services Limited ("Porta Verde"). This Notice focused on failings at Porta Verde which related to the mis-selling of extended warranty insurance with extremely poor conduct on the part of sales agents and bad treatment of vulnerable customers. This should have served as a clear warning to APG about the standards required for those operating in the AR field.
  2. APG failed to take proactive, timely steps, once the weaknesses in its processes were made clear to it in 2016, to contact customers to determine whether they had been mis-sold products and whether they were entitled to compensation.
- 6.16. APG cooperated fully with the Authority's investigation. There are no other mitigating factors.
- 6.17. Having taken into account these aggravating and mitigating factors, the Authority considers that the Step 2 figure should be increased by 10%.
- 6.18. Step 3 is therefore £958,115.73.

#### **Step 4: adjustment for deterrence**

- 6.19. Pursuant to DEPP 6.5A.4G, if the Authority considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.
- 6.20. The Authority considers that the Step 3 figure of £958,115.73 represents a sufficient deterrent to APG and others, and so has not increased the penalty at Step 4.
- 6.21. Step 4 is therefore £958,115.73.

#### **Step 5: settlement discount**

- 6.22. Pursuant to DEPP 6.5A.5G, if the Authority and the firm on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the firm reached agreement.
- 6.23. The Authority and APG reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure.
- 6.24. Step 5 is therefore £670,681.01.

#### **Penalty**

- 6.25. The Authority would have imposed a total financial penalty of £670,600 on APG, had APG not provided verifiable evidence of financial hardship, for breaching Principle 3 and Principle 6.

#### **Restitution**

- 6.26. APG has agreed to pay restitution to affected customers of £399,902 in relation to its contravention of Principles 3 and 6. This amount represents the brokerage it received in respect of sales of approximately 55,000 policies to approximately 33,000 customers. The Authority is conscious of the time that has passed since the Relevant Period and of the potentially difficult circumstances of the customers

that were sold policies by APG's ARs. It is clear from the findings of the review of calls that breaches of ICOBS were pervasive through the sales calls and there was a high risk that customers were being sold products that did not meet their needs (see paragraphs 4.37 to 4.42).

- 6.27. The Authority considers that the public censure and the agreement of APG to pay restitution of £399,902 for the benefit of affected customers supports the Authority's objective of securing an appropriate degree of protection for consumers.

## **7. PROCEDURAL MATTERS**

- 7.1. This Notice is given to APG under and in accordance with section 390 of the Act.
- 7.2. The following statutory rights are important.

### **Decision maker**

- 7.3. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.

### **Publicity**

- 7.4. 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 Authority must publish such information about the matter to which this Notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to APG or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
- 7.5. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority contacts**

- 7.6. For more information concerning this matter generally, contact Gareth Buttrill at the Authority (email: [gareth.buttrill@fca.org.uk](mailto:gareth.buttrill@fca.org.uk)).

Kate Tuckley

Head of Department (Acting)

Financial Conduct Authority, Enforcement and Market Oversight Division

## **ANNEX A**

### **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

- 1.1. The Authority's statutory objectives, set out in section 1B(3) of the Act, include the include the strategic objective to ensure that the relevant markets function well and the operational consumer protection objective objective[s].
- 1.2. Section 206(1) 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 amount as it considers appropriate."*

### **RELEVANT REGULATORY PROVISIONS**

#### **Principles for Businesses**

- 1.3. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Authority's Handbook. They derive their authority from the Authority's rule-making powers set out in the Act. The relevant Principles are as follows.
- 1.4. Principle 3 provides:

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

- 1.5. Principle 6 provides:

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

#### **ICOBBS**

- 1.6. ICOBS 2.2.2R, in force throughout the Relevant Period, which stated:

*"When a firm communicates information, including a financial promotion, to a customer or other policyholder, it must take reasonable steps to communicate it in a way that is clear, fair and not misleading."*

- 1.7. ICOBS 3.1.6R, in force throughout the Relevant Period, which stated:

*“When a firm makes a voice telephony communication to a consumer, it must make its identity and the purpose of its call explicitly clear at the beginning of the conversation.”*

1.8. ICOBS 3.1.10R, in force throughout the Relevant Period, which stated:

*“The performance of the distance contract may only begin after the consumer has given his approval.”*

1.9. ICOBS 3.1.14R, in force throughout the Relevant Period, which stated:

*“(1) In the case of a voice telephony communication, and subject to the explicit consent of the consumer, only the abbreviated distance marketing information (ICOBS 3 Annex 3 R) needs to be provided during that communication.*

*(2) However, unless another exemption applies (such as the exemption for means of distance communication not enabling disclosure) a firm must still provide the distance marketing information (ICOBS 3 Annex 2 R) in writing or another durable medium available and accessible to the consumer in good time before conclusion of any distance contract.”*

1.10. ICOBS 4.1.7R, in force throughout the Relevant Period, which stated:

*“Prior to the conclusion of an initial contract of insurance with a consumer a firm must state whether it is giving a personal recommendation.”*

1.11. ICOBS 5.1.1G, in place from 31 March 2013 in the Relevant Period, which stated:

*“(1) In line with Principle 6, a firm should take reasonable steps to ensure that a customer only buys a policy under which he is eligible to claim benefits.*

*(2) If, at any time while arranging a policy, a firm finds that parts of the cover apply, but others do not, it should inform the customer so he can take an informed decision on whether to buy the policy.*

*(3) This guidance does not apply to policies arranged as part of a packaged bank account.”*

1.12. ICOBS 5.1.2R, in force from 31 March 2013 in the Relevant Period, which stated:

*“(1) A firm arranging a payment protection contract must:*

*(a) take reasonable steps to ensure that the customer only buys a policy under which he is eligible to claim benefits; and*

*(b) if, at any time while arranging the policy, it finds that parts of the cover do not apply, inform the customer so he can take an informed decision on whether to buy the policy.*

*(2) This rule does not apply to payment protection contract arranged as part of a packaged bank account.”*

1.13. ICOBS 6.1.1R, in force throughout the Relevant Period, which stated:

*“An insurer is responsible for producing, and an insurance intermediary for providing to a customer, the information required by this chapter and by the distance communication rules (see ICOBS 3.1). However, an insurer is responsible for providing information required on mid-term changes, and an insurance intermediary is responsible for producing price information if it agrees this with an insurer.”*

1.14. ICOBS 6.1.5R, in force throughout the Relevant Period, which stated:

*“A firm must take reasonable steps to ensure a customer is given appropriate information about a policy in good time and in a comprehensible form so that the customer can make an informed decision about the arrangements proposed.”*

1.15. ICOBS 6.1.6G, in force throughout the Relevant Period, which stated:

*“The appropriate information rule applies pre-conclusion and post-conclusion, and so includes matters such as mid-term changes and renewals. It also applies to the price of the policy.”*

1.16. ICOBS 6.1.7G, in place throughout the Relevant Period, which stated:

*“The level of information required will vary according to matters such as:*

*(1) the knowledge, experience and ability of a typical customer for the policy;*

*(2) the policy terms, including its main benefits, exclusions, limitations, conditions and its duration;*

*(3) the policy's overall complexity;*

*(4) whether the policy is bought in connection with other goods and services;*

*(5) distance communication information requirements (for example, under the distance communication rules less information can be given during certain telephone sales than in a sale made purely by written correspondence (see ICOBS 3.1.14 R)); and*

*(6) whether the same information has been provided to the customer previously and, if so, when."*

1.17. ICOBS 6.2.5R, in force throughout the Relevant Period, which stated:

*"(1) A firm must provide a consumer with information on the right to cancel a policy.*

*(2) The information to be provided on the right to cancel is:*

*(a) its existence;*

*(b) its duration;*

*(c) the conditions for exercising it;*

*(d) information on the amount which the consumer may be required to pay if he exercises it;*

*(e) the consequences of not exercising it; and*

*(f) the practical instructions for exercising it.*

*(3) The information must be provided in good time before conclusion of the contract and in writing or another durable medium."*

1.18. ICOBS 6.3.1R, in force throughout the Relevant Period, which stated:

*"(1) Before a pure protection contract is concluded, a firm must inform a customer of the information in the table below.*

*(2) The information must be communicated in a clear and accurate manner, in writing, and in an official language of the State of the commitment or in another language agreed by the parties.*

<b>Information to be communicated before conclusion</b>	
<i>(1)</i>	<i>The name of the insurance undertaking and its legal form.</i>
<i>(2)</i>	<i>The name of the EEA State in which the head office and, where appropriate, the agency or branch concluding the contract is situated.</i>
<i>(3)</i>	<i>The address of the head office and, where appropriate, of the agency or branch concluding the contract.</i>
<i>(4)*</i>	<i>Definition of each benefit and each option.</i>
<i>(5)*</i>	<i>Term of the contract.</i>
<i>(6)*</i>	<i>Means of terminating the contract.</i>
<i>(7)*</i>	<i>Means of payment of premiums and duration of payments.</i>
<i>(8)*</i>	<i>Information on the premiums for each benefit, both main benefits and supplementary benefits, where appropriate.</i>
<i>(9)</i>	<i>Arrangements for application of the cancellation period.</i>
<i>(10)</i>	<i>General information on the tax arrangements applicable to the type of policy.</i>
<i>(11)</i>	<i>The arrangements for handling complaints concerning contracts by policyholders, lives assured or beneficiaries under contracts including, where appropriate, the existence of a complaints body (usually the Financial Ombudsman Service), without prejudice to the right to take legal proceedings.</i>
<i>(12)</i>	<i>The law applicable to the contract where the parties do not have a free choice or, where the parties are free to choose the law</i>

	<p><i>applicable, the law the insurance undertaking proposes to choose.</i></p>
<p><i>Note: The rule on mid-term changes applies to items marked with an asterisk (see ICOBS 6.3.3 R).</i></p>	

**[Note: Annex III(A) to the Consolidated Life Directive]**

## **SUP 12: Appointed Representatives**

1.19. SUP 12.1.3G, in place from 1 April 2013 in the Relevant Period, which stated:

*"The chapter also sets out the FCA's rules, and guidance on these rules, that apply to a firm before it appoints, when it appoints and when it has appointed an appointed representative. The main purpose of these rules is to place responsibility on a firm for seeking to ensure that:*

*(1) its appointed representatives are fit and proper to deal with clients in its name; and*

*(2) clients dealing with its appointed representatives are afforded the same level of protection as if they had dealt with the firm itself."*

1.20. SUP 12.3.1G, in place throughout the Relevant Period, which stated:

*"In determining whether a firm has complied with any provision in or under the Act such as any Principle or other rule, anything that an appointed representative has done or omitted to do as respects the business for which the firm has accepted responsibility will be treated as having been done or omitted to be done by the firm (section 39(4) of the Act )."*

1.21. SUP 12.3.2G, in force throughout the Relevant Period, which stated:

*"The firm is responsible, to the same extent as if it had expressly permitted it, for anything the appointed representative does or omits to do, in carrying on the business for which the firm has accepted responsibility (section 39(3) of the Act)."*

1.22. SUP 12.4.2R, in force throughout the Relevant Period, which stated:

*"Before a firm appoints a person as an appointed representative (other than an introducer appointed representative) and on a continuing basis, it must establish on reasonable grounds that:*

*(1) the appointment does not prevent the firm from satisfying and continuing to satisfy the threshold conditions;*

*(2) the person:*

*(a) is solvent;*

*(b) is otherwise suitable to act for the firm in that capacity;  
and*

*(c) has no close links which would be likely to prevent the effective supervision of the person by the firm;*

*(3) the firm has adequate:*

*(a) controls over the person's regulated activities for which the firm has responsibility (see SYSC 3.1 or SYSC 4.1); and*

*(b) resources to monitor and enforce compliance by the person with the relevant requirements applying to the regulated activities for which the firm is responsible and with which the person is required to comply under its contract with the firm (see SUP 12.5.3 G (2)); and*

*(4) the firm is ready and organised to comply with the other applicable requirements contained or referred to in this chapter."*

1.23. SUP 12.6.11A R, in force throughout the Relevant Period, which stated:

*"A firm must take reasonable steps to establish and maintain effective systems and controls for ensuring that each of its appointed representatives complies with those terms of its contract which are imposed under the requirements contained or referred to in SUP 12.5 (Contracts: required times)."*

### **SYSC Senior Management Arrangements, Systems and Controls**

1.24. SYSC 3.1R, in force throughout the Relevant Period, which stated:

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

1.25. SYSC 4.1.1R, in force throughout the Relevant Period, which stated from 1 January 2014:

*“(1) A firm must have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems.”*

From 23 July 2013 to 31 December 2013, SYSC 4.1.1R stated:

*“(1) A firm must have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems.*

*(2) 8A BIPRU firm and a third country BIPRU firm must comply with the Remuneration Code.”*

From the beginning of the Relevant Period, on 1 February 2013 to 22 July 2013, SYSC 4.1.1R stated:

*“(1) A firm must have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems.*

*(2) 8A BIPRU firm and a third country BIPRU firm must comply with the Remuneration Code.”*

## **DEPP**

- 1.26. Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's statement of policy with respect to the imposition and amount of financial penalties under the Act.

## **The Enforcement Guide**

- 1.27. The Enforcement Guide sets out the Authority's approach to exercising its main enforcement powers under the Act.
- 1.28. Chapter 7 of the Enforcement Guide sets out the Authority's approach to exercising its power to impose a financial a penalty.

## **ANNEX B**

### **SUMMARY OF KEY ICOBS FAILINGS BY SALES AGENTS IN REVIEW OF CALLS BY THE AUTHORITY**

1.1. The Authority's call review found that 147/150 (98%) of calls reviewed breached at least one of the ICOBS rules. APG's non-compliance with ICOBS rules was caused by information not being provided by sales agents to the customer at the right time or not being provided at all. In these calls, there was a high risk that the product had been mis-sold because the sales agent:

1. failed to provide the customer with appropriate information about the product making clear what was and was not covered and ensuring that the customer was eligible for cover;
2. took payment from the customer before the necessary information to allow the customer to make a decision had been given;
3. failed to inform the customer of the available payment options; and/or
4. failed to obtain customer consent to provide abbreviated rather than full distance marketing information so the customer did not make an informed decision to purchase.

1.2. This Annex outlines examples of key regulatory failings seen in the calls reviewed by the Authority with examples taken from the call review illustrating the key failings outlined above. This is in addition to those outlined at paragraphs 4.92 to 4.95 in relation to the treatment of vulnerable customers.

*Sales agent failed to provide the customer with appropriate information about the product making clear what was and was not covered and ensuring that the customer was eligible for cover*

1.3. The information provided to customers should be clear, fair and not misleading. The way the agents introduced the calls for new sales regularly implied an existing relationship with the AR. Agents would state that the warranty had expired and they were calling to put cover in place again. For example, in one call, which was a new sale, the sales agent introduced the purpose of the call as "*Just the initial manufactures insurance you have for your repairs and breakdown on the television, that's expired now and is due to be updated. It's just a routine call to put the policy in place this year for you*". This had the potential to mislead customers into thinking that the AR was already providing cover.

- 1.4. Agents are required to make their identity and the purpose of the call explicitly clear from the beginning. In eight calls reviewed this was not the case. In one call, the agent said that the call was in regard to the customer's satellite equipment box and got customer consent to proceed with a policy before saying where he was calling from, which the customer did not appear to recognise straightaway. Again, this could have misled the customer into believing that the AR was their original product provider or affiliated with them.
- 1.5. In 9/150 calls (6%), the sales agents overstated the risk of the insured event happening to induce the customer to buy cover. For example, in one call the sales agent told the customer *"just to put into perspective without having any insurance policy in place you are subject to expensive call out and replacement fees set in place"* the sales agent gave the typical costs of call outs and replacement costs set against the cost of the cover.
- 1.6. In relation to sales of TV cover, there was a key exclusion that TVs over five years old would not be covered. 74/150 calls reviewed by the Authority were sales of TV cover, in 48/74 the sales agent did not check the age of the television. On the two occasions where the customer disclosed that their TV was older than five years old the sales agent proceeded to sell cover. In one call, when the customer did not know the age of the TV, the agent offered to put the age down as less than five years old *"just to be on the safe side?"*.
- 1.7. Where customers disclosed existing faults with their equipment, they were assured that it would be covered even though existing faults were a key exclusion. In one call, a customer disclosed faults and explicitly asked if their TV would be replaced to which the agent replied *"and if the TV packs in altogether we just replace it again with a new one for you... Well it saves you a few hundred quid buying a new one"* despite existing faults being a key exclusion on the policy which would render the customer ineligible to claim.
- 1.8. In five calls, customers raised objections on the basis that they had existing cover and therefore did not need cover offered by the sales agent. For example, in one call, the customer objected ten times to the cover offered and said they had cover elsewhere. This was rejected by the agent who claimed to know that the customer did not have other cover, overstated the risk of something going wrong with the equipment and continued to offer the product until the customer eventually agreed.

*Sales agents took payment from the customer before the necessary information to allow the customer to make a decision had been given*

- 1.9. Customers should be given appropriate information about a policy in good time so that they could make an informed decision. In 121/150 (80%) calls reviewed, payment details or payment itself was taken from customers before any information about the product had been given.
- 1.10. In some cases, customers were not asked to consent to the sale at all and were instead just asked for their payment details. For example, in one call to an elderly and confused customer who declined to renew her policy that had expired, the customer was told by the agent *"we're updating your payment details so you need to pick one of those policies"*. This clearly suggested that the customer was required to take the policy and it was not optional. Aside from this, the call showed poor agent conduct as there was no information about the coverage, benefits or exclusions on the policy offered to that customer, nor did the agent check to see if the customer still had the equipment covered under the original policy.
- 1.11. Other examples of pressure sales tactics can be seen in the calls. In 16 (11%) of calls, the agent continued to sell the policy even after the customer objected. In one example, the customer says that they *"don't have any money in the bank"* but is told by the agent to get a bank card, *"whichever one you think has got money on it"*. The agent also did not provide any information about the policy coverage, benefits or exclusions on that call despite being told by that they did not have any information from the previous year. This was ignored by the agent who used the call (being a renewal) not to provide any information on the policy stating *"Well, as long as you've got those all the key facts and terms and conditions are the same as last year, so it just means that we don't have to read you out any disclaimers this year around"*.
- 1.12. Agents are required to give details of any cancellation rights, their duration and any conditions or fees. Details of cancellation rights were not always given. In four instances, the existence of cancellation rights was used as a sales tactic by the agent to pressure a customer into buying a policy. In one call, after being told by the customer multiple times that they could not afford the policy and asking to see the paperwork first, the agent tells the customer that they need to proceed with the policy to get the paperwork and then can cancel if they are not happy.

*Sales agent failed to inform the customer of the available payment options*

- 1.13. In 97/150 (65%) calls, sales agents failed to inform customers of all the available payment options. In one call, the customer says *"I can't afford that, I'm a pensioner"* when the sales agent offers an annual payment for the policy. The sales

agent continues to offer cover for an annual payment and does not offer monthly or quarterly payments to the customer despite their disclosed difficulty to pay an annual lump sum.

- 1.14. In another call, after being told by the customer that they wanted to pay monthly, the agent processes an annual payment despite the customer having told them that they could not afford that. The agent goes on to use cancellation to urge the customer to keep the policy and not complain by saying *"if you don't want to carry on with the cover sir as long as you cancel within 14 days then you do get a full refund"*.

*Sales agent failed to obtain customer consent to provide abbreviated rather than full distance marketing information, so the customer did not make an informed decision to purchase*

- 1.15. Subject to the explicit consent of the consumer, only abbreviated distance marketing information needs to be provided during the sales call. In 115/150 (77%) calls, agents did not seek customer consent to provide limited information. Often the agents described the information as *"some important information we are obliged to give you"* and did not ask the customer if they consented to this or wanted to receive full information instead. Some agents took the idea further and told customers *"not to listen"* to the information or implied that it was unimportant by saying things like *"I will go through it as quickly as possible so I don't keep you on the phone too long"*.

## **ANNEX C**

### **SUMMARY OF THE RESTITUTION PROGRAMME**

1. APG has agreed with the Authority as part of resolution to pay restitution of £399,902 ("the restitution fund") to customers who purchased extended warranty insurance.
2. PSC Insurance Group Limited will fund the restitution fund.
3. APG will administer the restitution programme.
4. PSC Insurance Group Limited will fund the entire costs of administering the restitution programme.
5. The costs of administering the restitution programme are in addition to the costs of funding the restitution fund and are not to be taken from the restitution fund.
6. The restitution fund will be distributed to customers of APG who purchased extended warranty insurance policies from the ARs during the Relevant Period (between 1 February 2013 and 21 March 2016).
7. APG will seek to contact customers proactively and will address customer enquiries during the restitution programme process. Details of the restitution programme will also be available on APG's website and a dedicated telephone line and email account will be established to deal with customer queries details of which will be on the APG's website and within all communications sent to customers.
8. Any customer who purchased extended warranty insurance in accordance with the paragraph 6 above is eligible for a restitution payment from the restitution fund.
9. All eligible customers who respond to the restitution programme communications will receive an equal share of the restitution fund. If a customer had more than one policy, each policy will be counted separately when determining what an equal payment is from the restitution fund.
10. The restitution payments are not intended to return to customers the full cost of the policy/policies they held but will be an equal share of the fees APG generated from selling the policies.
11. APG will not know how much the restitution payment for each customer will be until it has made initial contact with customers and they know how many customers wish to receive payments from the restitution fund.
12. Restitution payments will be made by bank transfer or by cheque depending on the customer preference.

13. There will be a two-stage communication exercise. Customer contact details will be ascertained by APG initially from its customer records. Given the passage of time since the insurance was purchased, APG will use its best endeavours to verify the customer's address, including through the use of an enhanced tracing processes. For example, tracing tools linked to credit reference agency data.
14. The first communication will ascertain that the contact details for the customer are correct and the customer will be invited to make a request for payment from the restitution fund.
15. The first communication will explain why the payment is being made and the steps a customer should take to obtain payment as well as other relevant information.
16. The second communication will either be a letter with a cheque explaining that the cheque must be banked within three months after which it will be invalid and no further cheques will be issued, or a letter confirming that a bank transfer has been made and the amount of it.
17. If it transpires from the communications that a customer is deceased, the next of kin of the deceased, on establishing proof of death (for example by producing a copy of the death certificate) is entitled to the restitution payment from the restitution fund to the same value as the customer would have been entitled.