

Settlement Agreement

Financial Markets Authority

Cigna Life Insurance New Zealand Limited

Settlement Agreement dated 8 August 2022

Parties

Financial Markets Authority, a Crown entity established under section 6 of the Financial Markets Authority Act 2011 (**FMA**); and

Cigna Life Insurance New Zealand Limited, a company incorporated in New Zealand, having its registered office at Level 24, Majestic Centre, 100 Willis Street, Wellington 6011, New Zealand (**Cigna**),

(together, the **Parties**).

Introduction

- A The FMA enforces Part 2 of the Financial Markets Conduct Act 2013.
- B Cigna is company that offers and promotes a range of life insurance products including life, income protection, trauma, bill protection and permanent disability cover, to individuals and companies based in New Zealand (**Customers**). Cigna enters into contracts of insurance with Customers for insurance policies, including “white label” policies which carry the branding of third parties but are underwritten by Cigna (**Policies**).
- C In 2019, Cigna advised the FMA of issues arising in relation to its indexation practices. The FMA subsequently commenced an investigation into Cigna’s indexation practices (**Investigation**).
- D The FMA has formed the view that, in circumstances where Cigna applied indexation at flat rates not set by reference to the Consumer Price Index (**CPI**) (in respect of Policies containing variable-rate clauses where indexation was to be set at the official rate of inflation or based on CPI or inflation) or the fixed rates contained in a Customer’s Policy, Cigna contravened s 22(d),(f), and (h) of the Act by making false and/or misleading representations by the terms of its annual notification letters to customers, subsequent communications to Customers regarding payment, and by charging Customers premiums based on a rate of indexation applied at flat rates and not set by reference to CPI or the fixed rate in the Customer’s policy.
- E The Parties have agreed to settle all matters that were the subject of the Investigation on the terms set out in this Agreement.
- F This Agreement may be made public by the FMA (including on the FMA’s website) following the public release of the Penalty Judgment.

1 Interpretation

1.1 For the purposes of this Agreement:

- (a) **Act** means the Financial Markets Conduct Act 2013;

- (b) **Admissions** means the admissions contained in clause 2;
- (c) **Admitted Cause of Action** means the admitted cause of action contained in the Statement of Claim as set out in clause 2.2;
- (d) **Agreed Recommended Penalty** means the pecuniary penalty defined in clause 2.4;
- (e) **Agreed Statement of Facts** means the Agreed Statement of Facts attached as **Schedule 3** to this Agreement;
- (f) **Agreement** means this settlement agreement and the schedules attached to it;
- (g) **Court** means the High Court of New Zealand or, on appeal, the Court of Appeal of New Zealand or the Supreme Court of New Zealand;
- (h) **Defaulting Party** has the meaning as set out in clause 8.1;
- (i) Dollar amounts stated are New Zealand dollars;
- (j) **Default Notice** means a written notice issued under clause 8.3 by one Party giving notice that the other Party is in breach of the Agreement;
- (k) **Information** includes all information, documents, material and evidence of any kind whatsoever, including all oral, written and electronic material in relation to the Investigation and the Proceeding;
- (l) **Investigation** has the meaning set out in paragraph C;
- (m) **Notice of Admissions** means the notice of admissions attached as **Schedule 2** to this Agreement;
- (n) **Notifying Party** has the meaning set out in clause 8.1;
- (o) **Party** means any party to this Agreement;
- (p) **Penalty Hearing** means any hearing or fixture in the Proceeding at which the FMA and Cigna will ask the Court to approve the order set out in clause 3.5;
- (q) **Penalty Judgment** means the judgment of the Court determining the pecuniary penalty payable by Cigna in the Proceeding. Where a Penalty Judgment of a particular Court is specified, it is the judgment of that Court;
- (r) **person** extends to non-natural persons and includes any association of persons whether incorporated or not;
- (s) **Proceeding** means the claim commenced on filing the Statement of Claim, and includes any appeals;
- (t) **Statement of Claim** means the statement of claim attached as **Schedule 1** to this Agreement; and

- (u) **Working Day** has the definition set out in r 1.3 of the High Court Rules 2016.

2 Admissions

- 2.1 The Parties have reached a full and final settlement of the claims against Cigna arising out of the Investigation.
- 2.2 Cigna admits that it made false/or misleading representations in contravention of s 22(d),(f), and (h) of the Act between 1 April 2014 and 21 November 2019.
- 2.3 In addition to signing the Notice of Admissions (attached as **Schedule 2**), Cigna admits the Admitted Cause of Action by signing:
 - (a) this Agreement; and
 - (b) the Agreed Statement of Facts attached as **Schedule 3**.
- 2.4 The Parties will recommend that the Court impose a civil pecuniary penalty under s 489 of the Act of between \$3,300,000 and \$3,850,000 in respect of Cigna's admitted contravention, in accordance with clause 3.5 of this Agreement (**Agreed Recommended Penalty**).
- 2.5 For the avoidance of doubt, nothing in this Agreement shall be construed as:
 - (a) resolving any past, continuing, or future contraventions of the Act arising in relation to the Investigation about which the FMA does not have reasonable notice; or
 - (b) preventing the FMA from commencing or continuing any civil or criminal proceedings against Cigna or any other person in respect of the matters described in clause 2.5(a).

3 Imposition of the Agreed Recommended Penalty

Parties to sign and FMA to file Statement of Claim, Agreed Statement of Facts and joint memorandum of counsel

- 3.1 On the same day as the execution of this Agreement, Cigna will sign and provide to the FMA:
 - (a) the Notice of Admissions attached as **Schedule 2**;
 - (b) the Agreed Statement of Facts attached as **Schedule 3**; and
 - (c) the joint memorandum of counsel attached as **Schedule 4**.
- 3.2 Within one Working Days of Cigna providing the FMA with the signed documents at clause 3.1 above, the FMA will file with the Court:
 - (a) the Statement of Claim;
 - (b) a notice of proceeding; and

(c) the documents referred to in clause 3.1, countersigned by the FMA as necessary.

3.3 For the avoidance of doubt, in accordance with the Notice of Admissions, the FMA may seal judgment on the Admitted Cause of Action in accordance with rules 11.11 and 15.16(3) of the High Court Rules 2016.

Progression to Penalty Hearing

3.4 The Parties will cooperate and use all reasonable endeavours to ensure that the Penalty Hearing proceeds:

- (a) on the first available date that the Court proposes; and
- (b) by whatever hearing mode the Court proposes (for example, in person or by telephone or videoconference).

Agreed Penalties and content of submissions

3.5 The Parties agree and undertake that:

- (a) the Agreed Recommended Penalty for the Admitted Cause of Action is a final penalty of between \$3,300,000 and \$3,850,000;
- (b) the Agreed Recommended Penalty is an appropriate pecuniary penalty in view of the conduct and the circumstances;
- (c) they will make written and oral submissions recommending to the Court that it adopt a starting point of \$5,500,000;
- (d) the FMA will make written and oral submissions recommending to the Court that it apply a discount of not less than 30 percent to the starting point for all mitigating factors;
- (e) Cigna will make written and oral submissions recommending to the Court that it apply a discount of not more than 40 percent to the starting point for all mitigating factors;
- (f) they will not seek in any way to suggest or argue to the Court that a different penalty should be imposed; and
- (g) they will otherwise support the Agreed Recommended Penalty before the Court.

3.6 The Parties agree that matters relating to Cigna's culpability are as described in the Statement of Claim and Agreed Statement of Facts.

Consultation on submissions

3.7 The FMA and Cigna will:

- (a) circulate to each other a draft of any submissions or memorandum they propose to file in relation to the Agreed Recommended Penalty at least seven Working Days before that Party is to file the submissions or memorandum with the Court;

- (b) provide any comments on a submission or memorandum received in accordance with clause 3.7(a) not more than three Working Days after receiving those submissions or that memorandum; and
- (c) consider in good faith any comments that the other Party may have in connection with the submissions or memorandum.

Court Costs

3.8 The Parties:

- (a) acknowledge that the final penalty will be first applied to paying the FMA's actual costs in bringing the Proceeding, given the effect of s 493 of the Act; and
- (b) agree to ask the Court that there be no further order for costs.

3.9 The Parties agree that neither Party will seek any other costs award in the Proceeding, other than costs arising:

- (a) from any breach of this Agreement;
- (b) following the service of a Default Notice in accordance with clause 8.3; and/or
- (c) in respect of a matter referred to in clause 2.5.

Co-operation

3.10 The Parties will, in all other steps, co-operate to secure the just, speedy, and inexpensive determination of the Proceeding.

4 Payment of Penalty

- 4.1 If the High Court imposes the Agreed Recommended Penalty in the Penalty Judgment, Cigna will pay the amount of the Agreed Recommended Penalty in cleared funds into the bank account nominated by the FMA within 15 Working Days of the Penalty Judgment.
- 4.2 If the High Court does not impose the Agreed Recommended Penalty in the Penalty Judgment, then Cigna will pay into the bank account nominated by the FMA any pecuniary penalty ordered by the High Court within 15 Working Days of the date of the Penalty Judgment unless, prior to the expiration of that period, a stay of the Penalty Judgment pending determination of an appeal is granted.
- 4.3 If a Penalty Judgment is issued by an appellate Court, Cigna (on the one hand), or the FMA (on the other hand), as applicable, shall pay to the other any difference between any pecuniary penalty paid by Cigna in accordance with clause 4.2 and the amount ordered by the appellate Court, together with any costs awarded by the appellate Court, into the bank account nominated by the FMA or Cigna. For the avoidance of doubt, if no pecuniary penalty has been paid by Cigna when a Penalty Judgment is issued by an appellate Court, this difference will be the total amount ordered by the appellate Court. The payment will be made within 15 Working Days of the date of the appellate

judgment or within any other time period specified by the appellate judgment, whichever is later.

- 4.4 If a stay of the Penalty Judgment is granted pending determination of an appeal, Cigna agrees to pay interest as prescribed by the Interest on Money Claims Act 2016 on any amount it has to pay to the FMA under clause 4.3. Interest will accrue from the date of the Penalty Judgment until payment is made in full.
- 4.5 For the avoidance of doubt, if the FMA is required to refund any amount under clause 4.3, the only interest to be paid is that actually earned, if any, on the amount to be refunded.

5 Time ceases to run for limitation purposes

- 5.1 The Parties agree that, in relation to any matters subject of the Investigation (including, without limitation, the Proceeding, any additional claims the FMA may make against Cigna in the Proceeding in the event that Cigna breaches the Agreement, and any related civil proceeding that the FMA may file against Cigna), time ceases to run for limitation purposes from the date of this Agreement until the final determination of the Proceeding.

6 Confidentiality and comment

Comment on settlement of proceeding

- 6.1 Subject to clause 6.2, either Party may issue a media release or make a public comment stating that:
- (a) the Proceeding has been filed and explaining the nature of the case consistently with the Statement of Claim, Admissions, and the Agreed Statement of Facts;
 - (b) the Parties have entered into a settlement to resolve the Proceeding on terms acceptable to all Parties; and
 - (c) a penalty hearing before the High Court will take place in due course.
- 6.2 Cigna will not issue any media release or make any public comment permitted by clause 6.1 until after the FMA has made a media release or public comment as permitted by clause 6.1.
- 6.3 In relation to any media release made by either Party under clause 6.1, the Party issuing the media release will provide a copy of the media release to the other Party 24 hours in advance of the release being published.
- 6.4 The Parties will not otherwise disclose the terms of this Agreement (including the Agreed Recommended Penalty) prior to the outcome of the Penalty Hearing.

Comment after release of Penalty Judgment

- 6.5 Subject to clause 6.6, either Party may issue a media release or make a public comment in relation to this Agreement or the outcome of the Penalty Hearing after the public release of the Penalty Judgment.

- 6.6 Cigna will not issue any media release or make any public comment permitted by clause 6.5 until after the FMA has made a media release or public comment as permitted by clause 6.5.
- 6.7 In relation to any media release made by either Party under clause 6.5, the Party issuing the media release will provide a copy of the media release to the other Party one hour in advance of the release being published.

Comments to be consistent with Admissions, Agreement and Agreed Statement of Facts

- 6.8 No Party will issue any media release or make any public comment that is inconsistent with the Penalty Judgment, Admissions, this Agreement, the Statement of Claim or the Agreed Statement of Facts.

Purpose of provision of advance copy of media release

- 6.9 The Parties agree that the purpose of providing an advance copy of any media release to be made under clause 6.1 or 6.5 to the other Party is only to allow the other Party to have advanced notice so as to inform its own position (and not for approval).

7 Appeals from the Penalty Judgment

- 7.1 If the Court imposes the Agreed Recommended Penalty, no Party may appeal or apply to recall or set aside the Penalty Judgment on the basis that the Agreed Recommended Penalty should not have been imposed.
- 7.2 If, following submissions from the Parties consistent with clause 3.5, the Court imposes any penalty that differs from the Agreed Recommended Penalty, either Party may appeal the Penalty Judgment.
- 7.3 In the event that an appeal is brought under clause 7.2:
- (a) the terms of this Agreement will remain binding on the Parties, including, for the avoidance of doubt, clause 3.5; and
 - (b) the Parties will each bear their own costs on any appeal (subject to any order from the Court directing otherwise), and shall not apply for, or otherwise seek, costs to be ordered against the other.

8 Non-compliance with Agreement

Default Notice for breaches of the Agreement

- 8.1 If any Party (the **Notifying Party**) suspects or believes that the other Party (the **Defaulting Party**) is in breach of the Agreement, or will in the future breach the Agreement, the Notifying Party must notify the Defaulting Party in writing:
- (a) of the grounds for the Notifying Party's view that a breach of the Agreement has occurred or will likely occur; and
 - (b) that the Notifying Party is contemplating issuing a Default Notice.

- 8.2 After notifying the Defaulting Party, the Notifying Party must:
- (a) give the Defaulting Party a reasonable opportunity to:
 - (i) respond to the grounds for the Notifying Party's view that a breach of the Agreement has occurred or will occur; and
 - (ii) take steps to remedy any breach of the Agreement that has occurred or would otherwise occur; and
 - (b) have regard to the Defaulting Party's response, and remedial action taken, if any.
- 8.3 If the Notifying Party has followed the process in clauses 8.1 and 8.2, and the Defaulting Party fails to comply with any term of this Agreement, the Notifying Party may give written notice that the Defaulting Party is in breach of the Agreement (a **Default Notice**).
- Notifying Party may take steps or commence proceedings following a Default Notice**
- 8.4 Following service of a Default Notice, the Notifying Party may:
- (a) take any further steps in or relating to the Proceeding, including (without limitation):
 - (i) by sealing judgment on the Admitted Cause of Action and seeking determination of a penalty in respect of the Admitted Cause of Action;
 - (ii) by applying to set aside or appeal from or enforce the Penalty Judgment; and
 - (iii) in the case of the FMA, by adding any additional causes of action against Cigna in the Proceeding the FMA considers appropriate;
 - (b) take any steps to enforce the obligations outlined in this Agreement;
 - (c) seek an award of costs in respect of the matter giving rise to the Default Notice; or
 - (d) terminate the Agreement.
- 8.5 If the Notifying Party takes further steps in the Proceeding pursuant to clause 8.4, the Defaulting Party may take any further steps in the Proceeding without restriction. Clauses 2.2, 2.5, 3.3, 5.1, 9.1, 9.2, 9.4 to 9.8 and 9.9 to 9.13 continue in full force and effect notwithstanding that any Party has terminated, or has purported to terminate, the Agreement.
- 8.6 The Parties agree that it shall not constitute a breach of this Agreement for either of them to make submissions in any Court in any other proceedings with respect to the relevance, weight or precedent value to be attributed to the Penalty Judgment.

Breach of obligation to pay pecuniary penalty

- 8.7 If a Party fails to make all or part of the payments referred to in clause 4 within the time specified, after first providing seven Working Days for the Party to rectify that breach, the other Party (the **Enforcing Party**) is:
- (a) entitled to enforce the Penalty Judgment;
 - (b) entitled to claim interest as prescribed by the Interest on Money Claims Act 2016 on the balance payable until the penalty (or difference owing) any costs awarded under clauses 4.3) are paid in full; and
 - (c) entitled to its costs, including its legal costs on a solicitor-client basis, arising from the failure to comply with clause 4.
- 8.8 Nothing in clause 8.7 limits the ability of the Enforcing Party to also issue a Default Notice in accordance with clauses 8.1 to 8.3 above.

Effect of Default Notice on Penalty recommendation

- 8.9 If a Default Notice has been given by the FMA, in any subsequent penalty hearing in the Proceeding the FMA may submit that:
- (a) the Agreed Recommended Penalty included discounts for cooperation, remorse and cost savings to the public;
 - (b) the breach of the Agreement demonstrates:
 - (i) a lower level of cooperation by Cigna;
 - (ii) a lack of remorse on behalf of Cigna; and
 - (iii) reduced cost savings to the public; and
 - (c) the Court should impose a higher pecuniary penalty than the Agreed Recommended Penalty to reflect an appropriate, lower level of discount.

9 General

Entire agreement

- 9.1 This Agreement constitutes the entire understanding and agreement between the Parties in relation to the Proceeding. It fully supersedes any and all prior agreements, arrangements, representations or understandings (whether orally or in writing) between the Parties pertaining to the Proceeding.
- 9.2 The Parties represent and agree that:
- (a) no oral contracts, arrangements, understandings, agreements or promises contrary to the terms of this Agreement exist;
 - (b) they have carefully read and fully understand all of the provisions of this Agreement, including the Schedules; and

- (c) they are each voluntarily entering into this Agreement after having received independent legal advice.

No misrepresentation arising from Information provided

- 9.3 The Parties acknowledge that neither Party has been induced to enter the Agreement by any representation made in, or in connection with, any Information provided by the other Party. Accordingly, neither Party may cancel the Agreement or be entitled to damages on account of any misrepresentation alleged to arise from or in connection with the provision of such Information (whether under the Contract and Commercial Law Act 2017 or otherwise).

Use and disclosure of Information

- 9.4 The FMA may use Information provided by Cigna for the purpose of carrying out any of the FMA's functions or obligations under any enactment, but may not disclose such Information to any third party other than in accordance with clauses 9.5 and 9.8 below.
- 9.5 Subject to legal professional privilege, the FMA may disclose Information provided by Cigna in the following circumstances:
- (a) to witnesses, solicitors, barristers and other advisers or consultants retained by the FMA in proceedings related to the Investigation;
 - (b) to any Court in the Proceeding, or any other FMA initiated proceeding related to the Investigation, including proceedings instituted in accordance with clause 8.4;
 - (c) as the FMA otherwise considers necessary or desirable with Cigna's prior written consent;
 - (d) pursuant to section 30 of the Financial Markets Authority Act 2011; or
 - (e) as required by law (including, for the avoidance of doubt, to comply with a request made under the Official Information Act 1982 or the Privacy Act 2020).
- 9.6 For the avoidance of doubt, the FMA may use any Information provided by Cigna for such purposes as are reasonably necessary to give effect to the Agreement.
- 9.7 Any Party may use Information provided by the other Party in proceedings instituted in accordance with clause 8.4 except Information that has been provided by a Party on a without prejudice basis.
- 9.8 Subject to clause 9.5, if any third party requests from the FMA disclosure of any Information provided to it by Cigna during the Investigation or in the Proceeding, the FMA will use its best endeavours to notify Cigna and provide Cigna with a reasonable opportunity to oppose such a request, including by Court action.

Amendments in writing

- 9.9 No amendment to this Agreement will be effective unless it is in writing and signed by both Parties.

Authorities

- 9.10 Each person executing this Agreement warrants that he or she has the full authority to enter into this Agreement and bind the Party for which he or she purports to enter into this Agreement.

Severance

- 9.11 Any provision in this Agreement that is unlawful will be severed and the remaining provisions remain enforceable, but only if the severed provision is not material to the purpose of this Agreement.

Parties to bear their own costs

- 9.12 Each Party will meet its own expenses incurred in the course of performing its obligations under this Agreement.

Governing law

- 9.13 This Agreement will be governed by, and construed in accordance with, the laws of New Zealand.

Further assurances

- 9.14 The Parties agree to make all applications, execute all documents and do all acts and things as may be necessary to give effect to its obligations under this Agreement.

No waiver

- 9.15 Failure by a Party to enforce any provision of this Agreement at any time will not operate as a waiver of that provision in respect of that act or omission or any other act or omission.

Counterparts

- 9.16 The Parties may enter into this Agreement by signing any number of counterparts, each of which will be treated as an original. All of the counterparts taken together will constitute a single, binding and enforceable Agreement.

10 Communications

- 10.1 Any notice or communication pursuant to this Agreement will be delivered as follows:

- (a) if addressed to the FMA, by hand delivery or email to the following address:

Financial Markets Authority
Level 5, Ernst & Young Building
2 Takutai Square, Britomart
Auckland
New Zealand

Attention: Liam Mason, General Counsel

Email: liam.mason@fma.govt.nz

Copy to:

Meredith Connell
Level 23, Aon Centre
1 Willis Street
Wellington Central 6011

Attention: Fionnghuala Cuncannon | Paul Comrie-Thomson

Email: fionnghuala.cuncannon@mc.co.nz |
paul.comrie-thomson@mc.co.nz

- (b) If addressed to Cigna, by hand delivery or email to the following address:

Bell Gully
Level 21, Vero Centre
48 Shortland Street
Auckland 1140
New Zealand

Attention: David Friar | Blair Keown

Email: david.friar@bellgully.com |
blair.keown@bellgully.com

Execution

**Signed by and on behalf of
Financial Markets Authority**



.....

Authorised signatory

Liam Mason

.....

Name

**Signed by and on behalf of
Cigna Life Insurance New Zealand Limited**

.....

Authorised signatory

.....

Name

Execution

**Signed by and on behalf of
Financial Markets Authority**

.....

Authorised signatory

.....

Name

**Signed by and on behalf of
Cigna Life Insurance New Zealand Limited**


.....

Authorised signatory

Gail Costa
.....

Name

Schedule 1: Statement of Claim

**In the High Court of New Zealand
Wellington Registry**

**I te Kōti Matua o Aotearoa
Te Whanganui-ā-Tara Rohe**

CIV-2022-485-

Under the Financial Markets Conduct Act 2013

Between **Financial Markets Authority** a Crown entity established under section 6 of the Financial Markets Authority Act 2011 having its offices at Level 2, 1 Grey Street, Wellington and Level 5, Ernst & Young Building, 2 Takutai Square, Britomart, Auckland

Plaintiff

And **Cigna Life Insurance New Zealand Limited** a duly incorporated company having its registered office at Level 24, Majestic Centre, 100 Willis Street, Wellington

Defendant

Statement of claim

8 August 2022

MC.

Fionnghuala Cuncannon | Paul Comrie-Thomson
PO Box 24546, Wellington 6140
T: +64 4 914 0530
fionnghuala.cuncannon@mc.co.nz |
paul.comrie-thomson@mc.co.nz

Statement of claim

The Plaintiff by its solicitor says:

Parties

- 1 The Plaintiff, the Financial Markets Authority (Te Mana Tatai Hokohoko) (**FMA**), is a Crown entity established under section 6 of the Financial Markets Authority Act 2011. Its functions include enforcement of Part 2 (Fair dealing) of the Financial Markets Conduct Act 2013 (**FMCA**).
- 2 The Defendant, Cigna Life Insurance New Zealand Limited (company number 20561) (**Cigna**), is:
 - (a) a company incorporated in New Zealand having its registered office at Level 24, Majestic Centre, 100 Willis Street, Wellington;
 - (b) the New Zealand subsidiary of Chubb Limited, a publicly-listed company registered in the United States of America;
 - (c) a licensed insurer under s 19 of the Insurance (Prudential Supervision) Act 2010; and
 - (d) in trade in New Zealand.

Cigna's insurance services

- 3 In the course of Cigna's business, it:
 - (a) offers and promotes a range of insurance products, including life, income protection, trauma, accidental death, bill protection and permanent disability cover, to individuals and companies based in New Zealand (**Customers**);
 - (b) enters into contracts of insurance with Customers, including "white label" policies which carry the branding of third parties but are underwritten by Cigna (**Policies**); and
 - (c) administers those Policies, including by communicating to Customers:
 - (i) the terms of the Policies in the policy terms and conditions, policy schedules, and product descriptions (**Policy Documents**); and
 - (ii) regarding administration of the Policies, including any increases to the sum insured (**Cover**) and the premium payable (**Premium**) to be applied in accordance with the terms of the Policies.
- 4 Customers pay Premiums:
 - (a) at varying frequencies, including fortnightly, monthly, and annually; and

- (b) by various means, including automatic payment, direct debit, debit card, or credit card.

Indexation

- 5 Policies offered and sold to Customers by Cigna, or “white label” Policies offered and sold by third parties, often include indexation benefits.
- 6 Indexation benefits allow for increases to be made to a Customer’s Cover and Premiums without any further underwriting assessment for the purpose of helping a Customer’s Cover keep up with inflation (**Indexation**).
- 7 During the period 25 January 2013 to 21 November 2019, Cigna employed Indexation clauses in at least 40 different types of Policies (**Relevant Policy Types**).

Particulars

- (i) Each of the Relevant Policy Types is relied upon as if pleaded in full.
- (ii) The Indexation clauses for 40 of the Relevant Policy Types are set out in Schedule 1.

Variable-Rate Clauses

- 8 At least 33 of the Relevant Policy Types included Indexation clauses that provided for Indexation increases to occur at variable rates (together, the **Variable-Rate Clauses**):
 - (a) Twenty-nine of the Variable-Rate Clauses provided that:
 - (i) Cigna may or would offer a Customer an annual increase to their Cover, on a compounding basis, subject to a specified minimum and/or maximum percentage; and
 - (ii) the amount of the increase would be determined by Cigna based on:
 - (A) the Consumer Price Index (**CPI**); or
 - (B) inflation.

Particulars of paragraph 8(a)

- (i) The Variable-Rate Clauses referred to in paragraph 8(a)(ii)(A) are set out at Schedule 1, Table 1, rows 1, 2, 3, 4, 7, 9, 11, 14, 15, 16, 17, 18, 19, 21, 22, 24, 25, 27, 28, 29, 30, 31, 32, and 33.
 - (ii) The Variable-Rate Clauses referred to in paragraph 8(a)(ii)(B) are set out at Schedule 1, Table 1, rows 6, 8, 10, 12, and 20.
- (b) Four Variable-Rate Clauses provided that the Customer’s Cover would be increased at the official rate of inflation subject to a specified minimum and/or maximum percentage on a compounding basis (**Official Rate of Inflation Clause**).

Particulars of paragraph 8(b)

The Official Rate of Inflation Clauses are set out at Schedule 1, Table 1, rows 5, 13, 23, and 26.

Fixed-Rate Clauses

- 9 At least seven of the Relevant Policy Types included Indexation clauses that provided for Indexation increases to occur at pre-specified fixed rates of 3%, 5% or 10% (together, the **Fixed-Rate Clauses**):
- (a) As set out at Schedule 1, Table 2, rows 1, 2, 5, 6, and 7, five of the Fixed-Rate Clauses provided that the Customer's Premium amount and Cover amount would increase by the specified percentage of the original Cover on the anniversary of the date that Policy was originally issued (**Anniversary Date**).
 - (b) As set out at Schedule 1, Table 2, rows 3 and 4, two Fixed-Rate Clauses provided that:
 - (i) Cigna may or would offer the Customer a yearly increase at the specified percentage on each Anniversary Date to help keep the Customer's Cover up to date with inflation;
 - (ii) the Customer did not have to accept an Indexation increase; and
 - (iii) no further increases would be offered in specified circumstances, including if the Customer declined three successive Indexation increases.

Policy administration system

- 10 At all material times, Cigna managed its Policies through a policy administration system called **CAPSIL**.
- 11 Indexation rates for Cigna Policies were loaded into CAPSIL and linked to the relevant Policies. Once loaded into CAPSIL, the Indexation rates were automatically applied unless the rate for an individual Customer was manually changed on CAPSIL.

Cigna's approach to Indexation

- 12 From 2013 until on or about 31 March 2019, Cigna applied a flat Indexation rate of 10% on a simple-interest basis (**10% Indexation Rate**) for certain "accidental death insurance" Policies that contained Variable-Rate Clauses (the **10% Policies**).
- 13 Prior to March 2013 Cigna generally applied Indexation rates in line with:
- (a) the average rate of CPI for Policies with Variable-Rate Clauses; and
 - (b) the relevant fixed rate for Policies with Fixed-Rate Clauses.

- 14 In or around 2012 and 2013, Cigna decided to apply a flat Indexation rate of 5% on a compounding basis to many Policies that included Variable-Rate Clauses (other than the 10% Policies) (**5% Indexation Rate**).
- 15 The 5% Indexation Rate was first notified to Customers on or about 25 January 2013.
- 16 The 5% Indexation Rate was applied to Policies with the Official Rate of Inflation Clauses renewed on or after 1 March 2013 until on or about 30 September 2015.
- 17 From on or about 1 October 2015, Cigna adopted the rate of CPI as at 1 March 2015 (0.3%) (the **0.3% Indexation Rate**) as the Indexation rate for the Policies with the Official Rate of Inflation Clauses (and maintained the 0.3% Indexation Rate until 31 March 2019).
- 18 The 5% Indexation Rate was automatically applied to other Policies that included Variable-Rate Clauses (other than the 10% Policies) renewed on or after 1 March 2013 until 31 March 2019, unless the Customer decided not to accept the increase and/or sought an increase in Cover of an alternative amount.
- 19 Between 25 January 2013 and 31 March 2019, Cigna continued to sell Policies with Variable-Rate Clauses after it had:
- (a) adopted the 5% Indexation Rate and continued to apply the 10% Indexation Rate to such Policies; and
 - (b) considered, but not actioned, amending the Policy Documents to remove any dependence on the CPI going forward.
- 20 During the period from 25 January 2013 to 21 November 2019, CPI ranged from 0.1% to 2.2% and averaged 1.12%.

Particulars

Schedule 2 sets out the CPI rates published in December 2012 through to September 2019.

- 21 The Policies to which the 10% Indexation Rate, 5% Indexation Rate or 0.3% Indexation Rate were applied are referred to as the **Affected Policies** in this statement of claim.

Particulars

From 1 April 2014, the total number of Affected Policies was 52,363.

- 22 By applying the 10% Indexation Rate, 5% Indexation Rate and 0.3% Indexation Rate rather than Indexation rates based on CPI or the fixed rate contained in the Policy, Customers paid, and Cigna received, additional Premiums for the Affected Policies.

Particulars

\$13,522,689.54 in respect of 52,363 Policies for the period 1 April 2014 to 31 March 2019.

Cigna's reviews of its Indexation practices

- 23 Cigna reviewed its Indexation practices and/or communications with Customers regarding Indexation on a number of occasions between 25 January 2013 and 21 November 2019, including in 2014, 2015, 2017 and 2018.
- 24 Following Cigna's 2018 review of its Indexation practices, in or about January 2019 Cigna changed the Indexation rate for the Affected Policies with Variable-Rate Clauses to 2% (reflecting the published CPI rate at the time, subject to a minimum 2% rate), taking effect for Affected Policies with Anniversary Dates on or after 1 April 2019.
- 25 On 21 November 2019, Cigna changed its CAPSIL system to set the rate of Indexation to match CPI (or to the minimum Indexation rate stated in the Affected Policies, where applicable, if CPI was below a minimum rate in a Policy). That change took effect for Affected Policies with Variable-Rate Clauses with Anniversary Dates on or after 1 February 2020.

Annual notification letters

- 26 In general, each Policy would automatically renew on the Anniversary Date until either:
- (a) the Policy was cancelled; or
 - (b) the termination date specified in the Policy.
- 27 At all material times, approximately five weeks before the Anniversary Date, Cigna sent a letter to the Customer notifying the Customer of any Indexation increase, which:
- (a) included:
 - (i) the Customer's current Cover amount;
 - (ii) the new Cover amount and new Premium payable following application of the Indexation increase;
 - (b) advised that the stated Indexation increase would automatically apply, and so the Customer had to opt out of the Indexation increase by contacting Cigna.

(Annual Notification Letter).

- 28 During the period 25 January 2013 until 21 November 2019, Cigna used various standard-form templates to prepare the Annual Notification Letters it sent to Customers, including the Types 1, 2, 3 and 3A letters pleaded from paragraphs 29 to 40 below (together, the **Letters**).

The Type 1 Letter

- 29 In addition to the matters pleaded at paragraph 27 above, the Annual Notification Letters sent to Customers between 25 January 2013 and in or around October 2015 (**Type 1 Letter**):

- (a) referred to the Customer's Policy;
- (b) stated that the Customer's Cover is adjusted annually to ensure it keeps its original value as inflation increases;
- (c) stated that the Customer's Premiums are also adjusted based on inflation;
- (d) stated that Cigna uses the most recent increase in CPI to calculate the increase in Cover;
- (e) referred to the Customer's current Cover level, as well as the new Cover amount and new Premium payable; and
- (f) stated that the new Premium would be charged to the Customer unless the Customer advised Cigna that it did not want to accept the "inflation adjustment", followed by an asterisk referring to a statement: "Please note, only the Policy Owner can decline inflation adjustments to this policy. If you decline three inflation adjustments, no further offers will be made."

The Types 2 and 3 Letters

- 30 An internal review of Cigna's Indexation practices in 2015 led by Cigna's Appointed Actuary identified that Cigna was not applying CPI-based Indexation for Policy renewals in accordance with the terms of the Variable-Rate Clauses and proposed options to remedy the issue (**2015 Indexation Benefit Review**).
- 31 Following the 2015 Indexation Benefit Review, Cigna:
 - (a) adopted from on or about 1 October 2015 the rate of CPI as at 1 March 2015 (0.3%) as the Indexation rate for the Policies with the Official Rate of Inflation Clauses (and maintained the 0.3% rate until 31 March 2019);
 - (b) otherwise did not change the 5% Indexation Rate and 10% Indexation Rate applying to Policies including Variable-Rate Clauses;
 - (c) decided to offer the Customer the option of contacting Cigna to increase their Cover by a different amount to the 5% Indexation Rate or 10% Indexation Rate, which would otherwise be automatically applied; and
 - (d) revised its standard-form Annual Notification Letter from the Type 1 Letter.
- 32 Following the 2015 Indexation Benefit Review, from in or around October 2015, Cigna implemented revised standard-form Annual Notification Letters, which varied depending on a number of factors including the type of Policy and whether Policies included provision for Indexation and "rerating" (which refers to adjustments made to Premiums to account for matters such as a person's age).
- 33 For Policies that included Indexation benefits, there were different standard form Annual Notification Letters depending on whether the Policy:

- (a) did not include provision for rereating (**Type 2 Letter**); or
- (b) included provision for rereating (**Type 3 Letter**).

34 In addition to the matters pleaded at paragraph 27 above, the Type 2 Letter:

- (a) referred to the Customer's Policy;
- (b) stated that the Customer's Cover is adjusted annually to make sure the value of the Policy does not decrease over time;
- (c) stated that, this year the Customer's Cover would be increased by:
 - (i) 10% in respect of the 10% Policies; or
 - (ii) 5% for other Policies that included Variable-Rate Clauses,to help keep the Customer's Cover up to date and to protect against inflation;
- (d) included an asterisk after the percentage figure, referring to a statement: "Subject to any limitation within your policy";
- (e) stated that the increase was guaranteed regardless of the Customer's current health, but the Customer did not have to accept it if they wanted to keep Cover at the existing level;
- (f) stated that the new Premium would be charged to the Customer unless the Customer advised Cigna that the Customer wanted to leave Cover at the existing level; and
- (g) stated that the Customer could contact Cigna if the Customer wanted to discuss their options or any other matter relating to their Policy.

35 The Type 2 Letter was used by Cigna from in or around October 2015 until at least 19 November 2019.

36 In addition to the matters pleaded at paragraph 27 above, the Type 3 Letter:

- (a) referred to the Customer's Policy;
- (b) stated that the Customer's Policy is adjusted on its Anniversary Date to take into account the Customer's age and inflation;
- (c) stated that to help make sure that the value of the Customer's Policy did not decrease over time, this year the Customer's Cover could be increased by:
 - (i) 10% in respect of the 10% Policies; or
 - (ii) 5% for all other Policies that included Variable-Rate Clauses,to help keep the Customer's Cover up to date and to protect against inflation;

- (d) included an asterisk after the percentage figure, referring to a statement: “Subject to any limitation within your policy”;
- (e) stated that the increase was guaranteed regardless of the Customer’s current health, but the Customer did not have to accept it if they wanted to keep Cover at the existing level;
- (f) stated that if the Customer wanted to increase their Cover to a different level than the percentage increase specified in the letter, Cigna would be pleased to help and the Customer should contact Cigna as soon as possible;
- (g) stated that the new Premium would be charged to the Customer unless the Customer advised Cigna that:
 - (i) the Customer wanted to leave Cover at the existing level; or
 - (ii) the Customer wanted to increase their Cover by a different amount; and
- (h) stated that the Customer could contact Cigna if the Customer wanted to discuss their options or any other matter relating to their Policy.

37 The Type 3 Letter was used by Cigna from in or around October 2015 until at least 26 May 2016.

The Type 3A Letter

38 The Type 3 Letter was amended on a date unknown to the FMA, but not later than 26 May 2016 (**Type 3A Letter**).

39 In addition to the matters pleaded at paragraph 27 above, the Type 3A Letter:

- (a) referred to the Customer’s Policy;
- (b) stated that to ensure that the value of the Customer’s Policy did not decrease over time, this year the Customer’s Cover could be increased by:
 - (i) 10% in respect of the 10% Policies; or
 - (ii) 5% for other Policies that included Variable-Rate Clauses,
 to help keep the Customer’s Cover up to date and to protect against inflation;
- (c) included an asterisk after the percentage figure, referring to a statement: “Subject to any limitation within your policy”;
- (d) stated that the increase was guaranteed regardless of the Customer’s current health, but the Customer did not have to accept it if they wanted to keep Cover at the existing level;

- (e) stated that the new Premium would be charged to the Customer unless the Customer advised Cigna that the Customer wanted to leave Cover at the existing level;
- (f) stated that if the Customer wanted to increase their Cover by a different amount, they should contact Cigna as soon as possible; and
- (g) stated that the Customer could contact Cigna if the Customer wanted to discuss their options or any other matter relating to their Policy.

40 The Type 3A Letter was used by Cigna from on or about 26 May 2016 until at least 21 November 2019.

The false and/or misleading representations

41 In circumstances where the rates of Indexation had been applied at flat rates and were not set by reference to CPI or the fixed rate contained in the Policy, Cigna made false and/or misleading representations to Customers with Policies containing Variable-Rate Clauses and Fixed-Rate Clauses:

- (a) by the terms of the Letters (and any other subsequent communications to Customers about payment), that:
 - (i) the specified Indexation increase had been calculated in accordance with the Customer's Policy;
 - (ii) in respect of:
 - (A) Type 1 Letters, CPI had been used to calculate the specified Indexation increase; and
 - (B) Type 2 Letters, Type 3 Letters and Type 3A Letters, the specified Indexation increase was based on a reasonable measure of inflation and/or linked to CPI; and
 - (iii) Cigna was entitled to charge the Premiums specified in the Letters; and
- (b) by charging the Customer the Premiums based on a rate of Indexation applied at flat rates and not set by reference to CPI or the fixed rate contained in the Customer's Policy, that:
 - (i) the Indexation increase had been calculated in accordance with the Customer's Policy; and
 - (ii) Cigna was entitled to charge the Premiums,

(the **Indexation Representations**).

The Conduct and Culture Review

42 In June 2018, the FMA and the Reserve Bank of New Zealand commenced a joint review into the conduct and culture of life insurers in New Zealand, one of which was Cigna (the **Conduct and Culture Review**).

43 Following the Conduct and Culture Review, in 2019 Cigna self-reported issues arising in relation to its Indexation practices to the FMA.

The Financial Markets Conduct Act 2013

44 Section 22 of the FMCA came into force on 1 April 2014.

Cause of action: False and/or misleading representations in breach of s 22 of the FMCA

45 The FMA repeats paragraphs 1 to 44 above.

46 Cigna issued the Letters in connection with the supply of financial services, namely the supply of insurance services.

47 Between 1 April 2014 and 21 November 2019, by issuing the Letters, sending any other subsequent communications to Customers regarding payment, and charging Customers increased Premiums based on a rate of Indexation applied at flat rates and not set by reference to CPI or the fixed rate contained in the Customer's Policy, Cigna made false and/or misleading representations:

- (a) as to the performance characteristics or benefits of the Indexation increases, in breach of s 22(d) of the FMCA;
- (b) as to the applicable price (in relation to the increase in Premiums), in breach of s 22(f) of the FMCA;
- (c) that Cigna had a right to charge the increase in Premiums in breach of s 22(h) of the FMCA.

48 Wherefore the FMA seeks:

- (a) a declaration that Cigna contravened ss 22(d), (f), and (h) of the FMCA;
- (b) a pecuniary penalty under s 489 of the FMCA against Cigna; and
- (c) costs.

This statement of claim is filed by Fionnghuala Joy Cuncannon, solicitor for the Plaintiff. The address for service of the Plaintiff is Meredith Connell, Level 23, 1 Willis Street, Wellington 6011.

Documents for service on the Plaintiff may be:

- (a) left at that address; or
- (b) posted to PO Box 24546, Manners Street, Wellington 6140; or
- (c) emailed to fionnghuala.cuncannon@mc.co.nz, with a copy to paul.comrie-thomson@mc.co.nz.

Schedule 1: Indexation clauses contained in the Relevant Policy Types

Table 1: Relevant Policy Types containing Variable-Rate Clauses

| | Policy Type | Indexation clause |
|---|-------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Cigna Renewable Term Life Insurance CIG0001629 (FMA.01.005) | <p>Indexation</p> <p>Whilst the Policy is in force, the Policy Owner may be offered an increase in the Sum Assured under this Policy on the first Anniversary Date, and then on each subsequent Anniversary Date. CIGNA will determine the rate of increase after taking into account rises in the Consumer Price Index.</p> <p>The rate of increase will not be less than 2% per annum or greater than 10% per annum. The Policy Owner can decline to accept any offers to increase the Sum Assured. If, during the term of this Policy, three increases are declined, then the right to any future increases in the Sum Assured under this Policy will end.</p> <p>CIGNA reserves the right to restrict the amount of any increase in the Sum Assured under this Policy, or not to apply an increase at all.</p> <p>The Premium for the increase in the Sum Assured will be calculated in accordance with the premium rates applying to the Policy and the Life Assured's age next birthday as at the date of the increase. Any premium renewal notice issued will show the total premium payable.</p> |
| 2 | Cigna Level Term Life Insurance CIG0001630 (FMA.01.004) | <p>Indexation</p> <p>Whilst the Policy is in force, the Policy Owner may be offered an increase in the Sum Assured under this Policy on the first Anniversary Date, and then on each subsequent Anniversary Date. CIGNA will determine the rate of increase after taking into account rises in the Consumer Price Index.</p> <p>The rate of increase will not be less than 2% per annum or greater than 10% per annum. The Policy Owner can decline to accept any offers to increase the Sum Assured. If, during the term of this Policy, three increases are declined, then the right to any future increases in the Sum Assured under this Policy will end.</p> <p>CIGNA reserves the right to restrict the amount of any increase in the Sum Assured under this Policy, or not to apply an increase at all.</p> <p>The Premium for the increase in the Sum Assured will be calculated in accordance with the premium rates applying to the Policy and the Life Assured's age next birthday as at the date of the increase. Any premium renewal notice issued will show the total premium payable.</p> |

| | Policy Type | Indexation clause |
|---|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 | Farmers Accidental Death Insurance CIG0001633 (FMA.01.006) | <p>Inflation adjustments</p> <p>To help keep your [cover up to date] Cigna [may offer you a yearly] increase in the current [Cover Amount] up [to 10%] on each Anniversary Date. The percentage increase offered will be [based] on the most recent 12 month increase in the Consumer Price Index (CPI).</p> <p>You do not have to accept an increase but no further increase will be offered once</p> <ul style="list-style-type: none"> • you [have declined] 3 offers; or • an offer [to increase] will mean the total [Cover Amount of] the Policy exceeds \$1,000,000; or • Cigna has been notified of a possible claim under this [Policy]; or • The Anniversary [Date after] the Life Insured's 65th birthday has been reached. |
| 4 | LifeOne Life Insurance with Optional Critical Illness CIG0001636 (FMA.01.011) | <p>Inflation adjustments</p> <p>To help keep your cover to date, we will offer you a yearly increase in the current Life Cover Amount and Critical Illness Cover Amount, up to 10% on each Anniversary Date. The percentage increase offered will be based on the most recent 12 month increase in the Consumer Price Index (CPI).</p> <p>The first indexation offer will be made on the 1st Anniversary Date and yearly from then on.</p> <p>You don't have to accept an increase but no further increases will be offered once any of the following happens:</p> <ul style="list-style-type: none"> • you have declined 3 successive offers • an offer to increase will lead to the total Life Cover Amount under the Policy exceeding \$1,000,000 • we have been notified of a possible Life or Terminal Illness or Critical Illness claim under this Policy • the Anniversary Date after the Life Insured's 65th birthday [has] been reached. <p>Increases of the Critical Illness Benefit Cover Amount will not be offered once the Anniversary Date after the Life Insured's 60th birthday has been reached.</p> |
| 5 | Cigna Income Protection Insurance CIG0001638 (FMA.01.013) | <p>Increases to your cover for inflation</p> <p>To help keep your total cover up to date, we will offer you an increase on each Anniversary Date. The increase will be the official rate of inflation up to a maximum increase of 10% per year. We'll send you a letter with your new cover and Premium Amount.</p> <p>The increase will apply to your Benefit Amount/s. If you are on claim when your cover increases for inflation, your actual Income Benefit won't increase.</p> <p>You don't have to accept our offer of an increase but no increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers or • an offer to increase will make your Benefit Amount/s exceed the maximum benefit available to you. |

| | Policy Type | Indexation clause |
|---|------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6 | Cigna Accidental Death Insurance CIG0001639 (FMA.01.014) | <p>Indexation</p> <p>To help keep the cover up to date with inflation, Cigna may offer the Policy Owner a yearly increase of up to 10% of the original Sum Insured on each Anniversary Date.</p> <p>The first indexation offer will be made on the 1st Anniversary Date and yearly from then on.</p> <p>The Policy Owner does not have to accept an increase but no further increases will be offered if:</p> <ul style="list-style-type: none"> • three offers have been declined; or • an offer to increase will lead to the sum insured exceeding \$1,000,000; or • Cigna has been notified of a possible claim under this Policy. |
| 7 | Cigna Accident Plus: Accidental Death Insurance with Additional Cancer Cover CIG0001640 (FMA.01.015) | <p>Inflation adjustments</p> <p>To help keep your cover up to date, CIGNA may offer you a yearly increase in the current Cover Amount, up to 5%, on each Anniversary Date. The percentage increase offered will be based on the most recent 12 month increase in the Consumer Price Index (CPI).</p> <p>You do not have to accept an increase but no further increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers • an offer to increase will lead to the total Cover Amount of the Policy exceeding \$400,000 • CIGNA has been notified of a possible claim under this Policy • the Anniversary Date after the Life Insured's 55th birthday has been reached. |
| 8 | Cigna Bill Cover Insurance CIG0001641 (FMA.01.016) | <p>Increases to your cover for inflation</p> <p>To help keep your total cover up to date, we will offer you an increase on each Policy Anniversary. The increase will take into account the rate of inflation – subject to a minimum increase of 2% and a maximum increase of 5% (or such other limits as advised from time to time) – and will be confirmed by us at least 30 days before any change takes effect. We'll notify you in writing of your new Benefit Amount and premium, and will explain any other changes to your premiums to take effect at this time.</p> <p>The increase will apply to your monthly benefit. If you are on claim when your cover increases for inflation, your actual claim amount won't increase.</p> <p>You can decline the increase however no further increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined three successive offers; • an offer to increase will make your monthly benefit exceed the maximum benefit available to you; or • you reach the age of 60. |

| | Policy Type | Indexation clause |
|----|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 | Cigna Personal Accident Cover Plus Insurance CIG0001645 (FMA.01.020) | <p>The Premium</p> <p>[...]</p> <p>On the anniversary of your policy each year, your benefits and premiums will increase. This increase is intended to protect your benefits from the effects of inflation, and will be assessed taking account of rises in the Consumer Price Index. No annual increase will exceed 10%.</p> <p>The premium rate for this “Personal Accident Cover Plus” policy may be changed at any time and such altered rates will apply with effect from the next annual anniversary date of the commencement date provided that such altered rate table may not be applied to this policy alone but will be applied to all “Personal Accident Cover Plus” policies then in force.</p> |
| 10 | Countdown Insurance Bill Protection Insurance CIG0001647 (FMA.01.022) | <p>Increases to your cover for inflation</p> <p>To help keep your total cover up to date, we will offer an increase on each Policy Anniversary. The increase will take into account the rate of inflation – subject to a minimum increase of 2% and a maximum increase of 5% (or such other limits as advised from time to time) – and will be confirmed by us at least 30 days before any change takes effect. We’ll send you a letter with your new cover and premium, which will explain any other changes to your premiums to take effect at this time.</p> <p>The increase will apply to your monthly benefit. If you are on claim when your cover increases for inflation, your actual claim amount won’t increase.</p> <p>You can decline the increase however no further increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined three successive offers; • an offer to increase will make your monthly benefit exceed the maximum benefit available to you; or • you reach the age of 60. |
| 11 | Countdown Insurance Life Insurance CIG0001648 (FMA.01.023) | <p>Inflation adjustments</p> <p>To help keep your cover up to date, we will offer you a yearly increase in the current Life Cover Amount and any Serious Illness Cover Amount, up to 10%, on each Anniversary Date. The percentage increase offered will be based on the recent 12 month increase in the Consumer Price Index (CPI).</p> <p>The first indexation offer will be made on the first Anniversary Date and yearly from then on.</p> <p>You don’t have to accept an increase but no further increases will be offered once any of the following happens:</p> <ul style="list-style-type: none"> • you have declined three successive offers • an offer to increase will lead to the total Life Cover Amount under the Policy exceeding \$1,000,000 • we have been notified of a possible Life or Terminal Illness or Serious Illness claim under this Policy • the Anniversary Date after the Life Insured’s 65th birthday has been reached. <p>Increases to the Serious Illness Benefit Cover Amount will not be offered once the Anniversary Date after the Life Insured’s 60th birthday has been reached or an offer to increase would lead to the Serious Illness Cover Amount exceeding \$500,000.</p> |

| | Policy Type | Indexation clause |
|----|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12 | BNZ Flexi Card Cover Insurance CIG0001653 (FMA.01.027) | <p>Increases to your cover for inflation</p> <p>To help keep your total cover up to date, we will offer you an increase on each Policy Anniversary. The increase will take into account the rate of inflation – subject to a minimum increase of 2% and a maximum increase of 5% (or such other limits as advised from time to time) – and will be confirmed by us at least 30 days before any change takes effect. We'll send you a letter with your new cover and premium, which will explain any other changes to your premiums to take effect at this time.</p> <p>The increase will apply to your monthly benefit. If you are on claim when your cover increases for inflation, your actual claim amount won't increase.</p> <p>You can decline the increase however no further increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers; • an offer to increase will make your monthly benefit exceed the maximum benefit available to you; or • you reach the age of 60. |
| 13 | HRV Bill Protection Insurance CIG0001655 (FMA.01.029) | <p>Increases to your cover for inflation</p> <p>To help keep your total cover up to date, we will offer you an increase on each Policy Anniversary until the policy Anniversary following your 60th birthday. The increase will be the official rate of inflation, subject to a minimum increase of 2% and a maximum increase of 5% per year. We'll send you a letter with your new cover and Premium.</p> <p>The increase will apply to your sum insured. If you are on claim when your cover increases for inflation, your actual claim amount won't increase.</p> <p>You don't have to accept our offer of an increase but no increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers or • an offer to increase will make your sum insured exceed the maximum benefit available to you. |

| | Policy Type | Indexation clause |
|----|----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14 | Kiwi Insure Life Insurance CIG0001657 (FMA.01.031) | <p>Indexation</p> <p>While this Policy is in force, Kiwi Insurance will offer the Policy Owner an increase in the sum insured for each benefit under this Policy on the first Anniversary Date, and then on each subsequent Anniversary Date, without the need for further evidence of the Life Insured's health.</p> <p>Each year Kiwi Insurance will determine the rate of increase (after taking into account rises in the Consumer Price Index) which will not be less than 2.5% or greater than 7.5%.</p> <p>The Policy Owner can decline to accept any offers to increase the sum insured.</p> <p>Kiwi Insurance will not offer the Policy Owner any further inflation increases to the benefits:</p> <ul style="list-style-type: none"> • if during the term of this Policy, the Policy Owner declines three increases; or • if an offer to increase will lead to a total sum insured in excess of \$2,000,000 or if the total sum insured reaches \$2,000,000 or more; or • once the Anniversary Date following the Life Insured's 60th birthday is reached. <p>Any premium renewal notice issued will show the total premium payable.</p> |
| 15 | Level Term Life Benefit Life Insurance CIG0001658 (FMA.01.032) | <p>Indexation Clause</p> <p>In order to protect your benefits against the rises in the cost of living, the Sum Assured under this Policy will increase automatically one year after the Commencement Date of the Policy, and yearly thereafter, at a rate determined by Us after taking into account rises in the Consumer Price Index. Except as when outlined below, this rate will not be less than 2% per annum.</p> <p>The Assured can decline to accept the automatic increases in which case the Sum Assured will continue unadjusted. If three automatic increases are declined, then the right to future automatic increase will cease.</p> <p>We reserve the right to restrict the amount of any increase or not to apply an increase at all if the total of all sums insured by Us under this Policy and any other contract in respect of the Life Assured that are subject to increases based on the rises in the Consumer Price Index exceeds the maximum We then allow.</p> <p>The Annual Benefit Premium for the increase in the Sum Assured will be calculated in accordance with Our applicable premium rates current at the date of the increase, and any premium renewal notice issued will show the total premium payable.</p> <p>No further automatic increase will be affected:-</p> <p>(a) if the Life Assured has attained the age of 65 years; or</p> <p>(b) If the Annual Benefit Premium for any increased Sum Assured has not been paid.</p> |

| | Policy Type | Indexation clause |
|----|-------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 16 | LifeOne Life Insurance with Optional Critical Illness CIG0001659 (FMA.01.033) | <p>Inflation adjustments</p> <p>To help keep your cover up to date, we will offer you a yearly increase in the current Life Cover Amount and Critical Illness Cover Amount, up to 10%, on each Anniversary Date. The percentage increase offered will be based on the most recent 12 month increase in the Consumer Price Index (CPI).</p> <p>The first indexation offer will be made on the 1st Anniversary Date and yearly from then on.</p> <p>You don't have to accept an increase but no further increases will be offered once any of the following happens:</p> <ul style="list-style-type: none"> • you have declined 3 successive offers • an offer to increase will lead to the total Life Cover Amount under the Policy exceeding \$1,000,000 • we have been notified of a possible Life or Terminal Illness or Critical Illness claim under this Policy • the Anniversary Date after the Life Insured's 65th birthday has been reached. <p>Increases of the Critical Illness Benefit Cover Amount will not be offered once the Anniversary Date after the Life Insured's 60th birthday has been reached.</p> |
| 17 | Mercer Billprotect Bill Cover Insurance CIG0001660 (FMA.01.034) | <p>Increases to your cover for inflation</p> <p>To help keep your total cover up to date, we will offer you an increase on each Policy Anniversary until the Policy Anniversary following your 60th birthday. The percentage increase offered will be based on the recent 12 month increase in the Consumers Price Index (CPI). subject to a minimum increase of 2% and a maximum increase of 10% per year. We'll send you a letter with your new cover and premium.</p> <p>The increase will apply to your monthly benefit. If you are on claim when your cover increases for inflation, your actual claim amount won't increase.</p> <p>You don't have to accept our offer of an increase but no further increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined three successive offers or • an offer to increase will make your monthly benefit exceed the maximum benefit available to you. |

| | Policy Type | Indexation clause |
|----|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18 | Mercer Lifeprotect Life Insurance CIG0001661 (FMA.01.035) | <p>Inflation adjustments</p> <p>To help keep your cover up to date, we will offer you a yearly increase in the current Life Cover Amount and any Critical Illness Cover Amount, up to 10%, on each Anniversary Date. The percentage increase offered will be based on the recent 12 month increase in the Consumer Price Index (CPI).</p> <p>The first indexation offer will be made on the first Anniversary Date and yearly from then on.</p> <p>You don't have to accept an increase but no further increases will be offered once any of the following happens:</p> <ul style="list-style-type: none"> • you have declined three successive offers • an offer to increase will lead to the total Life Cover Amount under the Policy exceeding \$1,000,000 • we have been notified of a possible Life or Terminal Illness or Critical Illness claim under this Policy • the Anniversary Date after the Life Insured's 65th birthday has been reached. <p>Increases to the Critical Illness Benefit Cover Amount will not be offered once the Anniversary Date after the Life Insured's 60th birthday has been reached or an offer to increase would lead to the Critical Illness Cover Amount exceeding \$500,000.</p> |
| 19 | Joint Midterm Life Benefit: Life Insurance CIG0001662 (FMA.01.036) | <p>Indexation Clause</p> <p>In order to protect your benefits against the rises in the cost of living, the Sum Assured under this Policy will increase automatically one year after the Commencement Date of the Policy, and yearly thereafter, at a rate determined by Us after taking into account rises in the Consumer Price Index. Except as when outlined below, this rate will not be less than 2% per annum.</p> <p>The Assured can decline to accept the automatic increases in which case the Sum Assured will continue unadjusted. If three automatic increases are declined, then the right to future automatic increase will cease.</p> <p>We reserve the right to restrict the amount of any increase or not to apply an increase at all if the total of all sums insured by Us under this Policy and any other contract in respect of the Life Assured that are subject to increases based on the rises in the Consumer Price Index exceeds the maximum We then allow.</p> <p>The Annual Benefit Premium for the increase in the Sum Assured will be calculated in accordance with Our applicable premium rates current at the date of the increase, and any premium renewal notice issued will show the total premium payable.</p> <p>No further automatic increase will be affected:-</p> <p>(a) if the Life Assured has attained the age of 65 years; or</p> <p>(b) If the Annual Benefit Premium for any increased Sum Assured has not been paid.</p> |

| | Policy Type | Indexation clause |
|----|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20 | BNZ Flexi Card Cover Insurance CIG0001663 (FMA.01.038) | <p>Increases to your cover for inflation</p> <p>To help keep your total cover up to date, we will offer you an increase on each Policy Anniversary. The increase will take into account the rate of inflation – subject to a minimum increase of 2% and a maximum increase of 5% (or such other limits as advised from time to time) – and will be confirmed by us at least 30 days before any change takes effect. We'll send you a letter with your new cover and premium, which will explain any other changes to your premiums to take effect at this time.</p> <p>The increase will apply to your monthly benefit. If you are on claim when your cover increases for inflation, your actual claim amount won't increase.</p> <p>You can decline the increase however no further increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers; • an offer to increase will make your monthly benefit exceed the maximum benefit available to you; or • you reach the age of 60. |
| 21 | Cigna Term Life Insurance CIG0001664 (FMA.01.039) | <p>Indexation</p> <p>While this Policy is in force, CIGNA may offer the Policy Owner an increase in the sum insured under this Policy on the first Anniversary Date, and then on each subsequent Anniversary Date, without the need for further evidence of the Life Insured's health.</p> <p>CIGNA will determine the rate of increase after taking into account rises in the Consumer Price Index. The rate of increase will not be less than 2.5% per annum or greater than 10% per annum.</p> <p>The Policy Owner can decline to accept any offers to increase the sum insured.</p> <p>CIGNA will not offer the Policy Owner any further inflation increases:</p> <ul style="list-style-type: none"> • if during the term of this Policy, the Policy Owner declines three increases; or • if an offer to increase will lead to a total sum insured in excess of \$2,000,000 or if the total sum insured reaches \$2,000,000 or more; or • once the Anniversary Date following the Life Insured's 60th birthday is reached. <p>Any premium renewal notice issued by CIGNA will show the total premium payable.</p> |
| 22 | Cigna Permanent Term Life Insurance CIG0001666 (FMA.01.037) | <p>Inflation Adjustment</p> <p>In order to protect Your benefits against the rise in the cost of living, the sum assured under this policy will increase automatically one year after the Commencement Date of this policy, and yearly thereafter. The rate of any increase will be determined by Us after taking into account rises in the Consumers Price Index. This rate will not be less than 2% or greater than 10% in any one year.</p> <p>You can decline to accept any automatic increase in which case the sum assumed will continue unadjusted.</p> <p>If three automatic increase are declined, then the right to future increases will cease. We reserve the right to restrict the amount of any increase or to not apply any increase at all if the total of all sum[s] assured issued by Us on the contract and any other contract in respect of the Life Assured exceeds the maximum We then allow.</p> |

| | Policy Type | Indexation clause |
|----|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23 | Farmers Finance Bill Protection Insurance CIG0001667 (FMA.01.041) | <p>Increases to cover for inflation:</p> <p>To help keep your total cover up to date, we will offer you an increase on each Policy Anniversary until the Policy Anniversary following your 60th birthday. The increase will be the official rate of inflation, subject to a minimum increase of 2% and a maximum increase of 5% per year. We'll send you a letter with your new cover and Premium.</p> <p>The increase will apply to your sum insured. If you are on claim when your cover increases for inflation, your actual claim amount won't increase.</p> <p>You don't have to accept our offer of an increase but no increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers or • an offer to increase will make your sum insured exceed the maximum benefit available to you. |
| 24 | Q Card Accidental Death Insurance CIG0001668 (FMA.01.042) | <p>Inflation adjustments</p> <p>To help keep your cover up to date, Cigna may offer you a yearly increase in the current Cover Amount, up to 10%, on each Anniversary Date. The percentage increase offered will be based on the most recent 12 month increase in the Consumer Price Index (CPI).</p> <p>You do not have to accept an increase but no further increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers; or • an offer to increase will mean the total Cover Amount of the Policy exceeds \$1,000,000; or • Cigna has been notified of a possible claim under this Policy; or • the Anniversary Date after the Life Insured's 65th birthday has been reached. |
| 25 | Q Card Accidental Death Insurance CIG0001669 (FMA.01.043) | <p>Inflation adjustments</p> <p>To help keep your [cover up to date], Cigna [may offer you a yearly] increase in the current [Cover Amount], up to 10%, on each Anniversary Date. The percentage increase offered will be [based] on the most recent 12 month increase in the Consumer Price Index (CPI).</p> <p>You do not have to accept an increase but no further increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers; or • an offer [to increase] will mean the total [Cover Amount] of the Policy exceeds \$1,000,000; or • Cigna has been notified of a possible claim under this [Policy]; or • the Anniversary [Date after] the Life Insured's 65th birthday has been reached. |

| | Policy Type | Indexation clause |
|----|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 26 | Q Card Bill Protection Insurance CIG0001671 (FMA.01.045) | <p>Increases to your cover for inflation</p> <p>To help keep your total cover up to date, we will offer you an increase on each Policy Anniversary until the Policy Anniversary following your 60th birthday. The increase will be the official rate of inflation, subject to a minimum increase of 2% and a maximum increase of 5% per year. We'll send you a letter with your new cover and Premium.</p> <p>The increase will apply to your sum insured. If you are on claim when your cover increases for inflation, your actual claim amount won't increase.</p> <p>You don't have to accept our offer of an increase but no increases will be offered once:</p> <ul style="list-style-type: none"> • you have declined 3 offers or • an offer to increase will make your sum insured exceed the maximum benefit available to you. |
| 27 | Cigna Renewable Life Insurance CIG0001672 (FMA.01.046) | <p>Indexation/Inflation Options</p> <p>Indexation is the increase each year on the sum assured in line with inflation. It is calculated from the Consumer Price Index, by CIGNA, at a minimum 2%, maximum [10%]. The premium also increases accordingly, at the then [current ... rate at indexation date] . Indexation is offered <u>only</u> on policies accepted at standard rates. The Life Assured can choose <u>not</u> to take up this option. CIGNA has the right not to offer indexation, or to limit the amount offered at any time.</p> |
| 28 | Megaterm Life Benefit Life Insurance CIG0001673 (FMA.01.047) | <p>Indexation Clause</p> <p>In order to protect your MEGATERM Benefits against the rises in the costs of living, the Sum Assured under this Policy will increase automatically one year after the Commencement Date of the Policy, and yearly thereafter, at a rate determined by us taking into account rises in the Consumer Price Index. Except as when outlined below, this rate will not be less than 2% annum.</p> <p>The Assured can decline to accept the automatic increases in which case the Sum Assured will continue unadjusted. If three automatic increases are declined, then the right to future automatic increases will cease.</p> <p>We reserve the right to restrict the amount of any increase or not to apply an increase at all if the total of all sums insured by Us under this Policy and any other contract in respect of the Life Assured that are subject increases based on the rises in the Consumer Price Index exceeds the maximum We then allow.</p> <p>[The] Annual Benefit Premium for the increase in the MEGATERM Sum Assured will be calculated in [accordance] with Our applicable premium rates current at the date of the increase, and any premium renewal [notice] issued will show the total premium payable.</p> <p>No further automatic increase will be affected:-</p> <p>(a) if the Life Assured has attained the age of 65 years; or</p> <p>(b) if the Annual Benefit Premium for any increased MEGATERM Sum Assured has not been paid.</p> |

| | Policy Type | Indexation clause |
|----|-------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 29 | Quest Life Cover Life Insurance CIG0001674 (FMA.01.049) | <p>Indexation</p> <p>While this Policy is in force, CIGNA may offer the Policy Owner an increase in the sum insured under this Policy on the first Anniversary Date, and then on each subsequent Anniversary Date, without the need for further evidence of the Life Insured's health. CIGNA will determine the rate of increase after taking into account rises in the Consumer Price Index. The rate of increase will not be less than 2% annum or greater than 10% per annum.</p> <p>The Policy Owner can decline to accept any offers to increase the sum insured.</p> <p>CIGNA will not offer the Policy Owner any further inflation increases:</p> <ul style="list-style-type: none"> • if during the term of this Policy, the Policy Owner declines three increases; or • if an offer to increase will lead to a total sum insured in excess of \$2,000 or if the total sum insured reaches \$2,000,000 or more; or • once the Anniversary Date following the Life Insured's 60th birthday is reached. <p>Any premium renewal notice issued by CIGNA will show the premium payable.</p> |
| 30 | TSB Bank Accidental Death Insurance CIG0001676 (FMA.01.051) | <p>Inflation adjustments</p> <p>To help keep your cover up to date, Cigna may offer you a yearly increase in the current cover amount, up to 10%, on each anniversary date. The percentage increase offered will be based on the most recent 12 month increase in the Consumer Price Index (CPI).</p> <p>You do not have to accept an increase but no further increases will be offered once:</p> <ul style="list-style-type: none"> • You have declined 3 offers; or • An offer to increase will mean the total cover amount of the policy exceeds \$1,000,000; or • Cigna has been notified of a possible claim under this policy; or • The anniversary date after the life insured's 65th birthday has been reached. |

| | Policy Type | Indexation clause |
|----|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 31 | Southern Cross Life Insurance CIG0001677 (FMA.01.050) | <p>Inflation adjustments</p> <p>To help keep your cover up to date, we will offer you a yearly increase in the current Life Cover Amount up to 10%, on each Anniversary Date. The percentage increase offered will take into account the most recent 12 month increase in the Consumer Price Index (CPI).</p> <p>The first indexation offer will be made on the first Anniversary Date and yearly from then on.</p> <p>You don't have to accept an increase but no further increases will be offered once any of the following happens:</p> <ul style="list-style-type: none"> • you have declined three successive offers • an offer to increase will lead to the total Life Cover Amount under the Policy exceeding \$1,000,000 • we have been notified of a possible Life or Terminal Illness claim under this Policy • the Anniversary Date after the Life Insured's 65th birthday has been reached. |
| 32 | TSB Bank Accidental Death Insurance CIG0001678 (FMA.01.053) | <p>Indexation</p> <p>While this Policy is in force, CIGNA may offer the Policy Owner an increase in the Sum Insured under this Policy on the first Anniversary Date, and then on each subsequent Anniversary Date.</p> <p>CIGNA will determine the rate of increase after taking into account rises in the Consumer Price Index. The rate of increase will not be less than 2% per annum or greater than 10% per annum.</p> <p>The Policy Owner can decline to accept any offers to increase the Sum Insured.</p> <p>CIGNA will not offer the Policy Owner any further increases to the Sum Insured if:</p> <ul style="list-style-type: none"> • during the term of this Policy, three increases are declined by the Policy Owner; or • an offer to increase will lead to a Sum Insured in excess of \$1,000,000; or • the Sum Insured reaches \$1,000,000 or more. <p>The premium for the increase in the Sum Insured will be calculated in accordance with the premium rates applying to this Policy as at the date of the increase.</p> <p>Any premium renewal notice issued will show the total premium payable.</p> |

| | Policy Type | Indexation clause |
|----|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 33 | TSB Term Life Crisis Life Insurance CIG0001679 (FMA.01.052) | <p>Inflation adjustments</p> <p>To help keep YOUR cover up to date, Cigna may offer YOU a yearly increase on the current COVER AMOUNT, up to 10%, on each ANNIVERSARY DATE. The percentage increase offered will be based on the most recent 12 month increase in the Consumer Price Index (CPI). If YOU accept the offer, YOUR premium will increase in line with the premium rates applicable at the date of the increase. This applies to both FIXED and VARIABLE policies.</p> <p>You do not have to accept an increase but no further increases will be offered once:</p> <ul style="list-style-type: none"> • YOU have declined 3 offers; • an offer to increase will lead to the total cover amount under the POLICY exceeding \$2,000,000; • Cigna has been notified of a possible claim under this POLICY; or • the ANNIVERSARY DATE after the LIFE INSURED'S 65th birthday has been reached. |

Table 2: Relevant Policy Types containing Fixed-Rate Clauses

| | Policy Type | Indexation clause |
|---|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | BNZ Accidental Death Insurance CIG0001631 (FMA.01.008) | <p>Indexation</p> <p>The Sum Insured and premium will automatically increase by 5% of the original Sum Insured and premium on each Anniversary Date. Cigna will confirm your new level of cover and premium in writing. This notice will be sent to the most recent address that Cigna has on record. It is the Policy Owner(s)' responsibility to maintain current address details with Cigna.</p> <p>Once the Sum Insured under this Policy reaches \$1,000,000 no further Indexation adjustments will be applied to this Policy.</p> <p>The Policy Owner(s) may cancel future Indexation adjustments by advising Cigna prior to the next Anniversary Date.</p> |
| 2 | BNZ Accidental Death Insurance CIG0001634 (FMA.01.007) | <p>Indexation</p> <p>The Sum Insured and premium will automatically increase by 5% of the original Sum Insured and premium on each Anniversary Date. CIGNA will confirm your new level of cover and premium in writing. This notice will be sent to the most recent address that CIGNA has on record. It is the Policy Owner(s)' responsibility to maintain current address details with CIGNA.</p> <p>Once the Sum Insured under this Policy reaches \$1,000,000 no further Indexation adjustments will be applied to this Policy.</p> <p>The Policy Owner(s) may cancel future Indexation adjustments by advising CIGNA prior to the next Anniversary Date.</p> |

| | Policy Type | Indexation clause |
|---|-----------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 | Cigna Income Protection Insurance CIG0001644 (FMA.01.017) | <p>Indexation</p> <p>To help keep your cover up to date with inflation, CIGNA may offer you a yearly increase of 3% on each Anniversary Date.</p> <p>You do not have to accept an increase but no further increases will be offered once you have:</p> <ul style="list-style-type: none"> declined three indexation offers; or reached the age of 60. <p>If while on claim your cover increases due to indexation the amount CIGNA will pay will be the Monthly Benefit that applied at the date you became Unable to Work.</p> |
| 4 | Countdown Insurance Accidental Death Insurance CIG0001646 (FMA.01.021) | <p>Inflation adjustments</p> <p>To help keep your cover to date with inflation, we will offer you a yearly increase of 5% on each Anniversary Date.</p> <p>You do not have to accept an increase but no further increases will be offered if:</p> <ul style="list-style-type: none"> three successive offers have been declined an offer to increase will lead to the sum insured exceeding \$1,000,000 the Anniversary Date after the Life Insured's 65th birthday has been reached we have been notified of a possible claim under this Policy. |
| 5 | Farmers Finance Accidental Death Insurance CIG0001649 (FMA01.025) | <p>Indexation</p> <p>The Paid Cover sum insured and premium will automatically increase by 10% of the original Paid Cover sum insured and premium on each Anniversary Date. CIGNA will confirm the new level of cover and premium in writing. This notice will be sent to the most recent address that CIGNA has on record for the Policy Owner. It is the Policy Owner's responsibility to maintain current address details with CIGNA.</p> <p>Once the Paid Cover sum insured under this Policy reaches \$1,000,000 no further Indexation adjustments will be applied to this Policy.</p> <p>The Policy Owner may cancel further Indexation adjustments by advising CIGNA prior to the next Anniversary Date. Indexation does not apply to the Free Cover sum insured.</p> |
| 6 | Farmers Accidental Death Insurance CIG0001651 (FMA.01.024) | <p>Indexation</p> <p>If you have accepted the indexation option, your premium and level of cover will increase by 10% of the original sum insured on each policy anniversary. CIGNA will confirm your new level of cover and premium in writing.</p> |
| 7 | Qantas Telstra ANZ Visa Accident Protection Plan Free & Paid Cover Accidental Death Insurance CIG0001680 (FMA.01.048) | <p>Indexation</p> <p>If you have accepted the indexation option, your premium and level of cover will increase by 10% of the original sum insured on each policy anniversary. CIGNA will confirm your new level of cover and premium in writing.</p> |

Schedule 2: Published CPI rates from December 2012 through to September 2019

| Date | CPI inflation (%) |
|----------------|--------------------------|
| Dec 2012 | 0.9 |
| Mar 2013 | 0.9 |
| Jun 2013 | 0.7 |
| Sep 2013 | 1.4 |
| Dec 2013 | 1.6 |
| Mar 2014 | 1.5 |
| Jun 2014 | 1.6 |
| Sep 2014 | 1.0 |
| Dec 2014 | 0.8 |
| Mar 2015 | 0.3 |
| Jun 2015 | 0.4 |
| Sep 2015 | 0.4 |
| Dec 2015 | 0.1 |
| Mar 2016 | 0.4 |
| Jun 2016 | 0.4 |
| Sep 2016 | 0.4 |
| Dec 2016 | 1.3 |
| Mar 2017 | 2.2 |
| Jun 2017 | 1.7 |
| Sep 2017 | 1.9 |
| Dec 2017 | 1.6 |
| Mar 2018 | 1.1 |
| Jun 2018 | 1.5 |
| Sep 2018 | 1.9 |
| Dec 2018 | 1.9 |
| Mar 2019 | 1.5 |
| Jun 2019 | 1.7 |
| Sep 2019 | 1.5 |
| Average | 1.12 |

Schedule 2: Notice of Admissions

**In the High Court of New Zealand
Wellington Registry**

**I te Kōti Matua o Aotearoa
Te Whanganui-ā-Tara Rohe**

CIV-2022-485-

Under the Financial Markets Conduct Act 2013

Between **Financial Markets Authority**
Plaintiff

And **Cigna Life Insurance New Zealand Limited**
Defendant

Notice of admissions

8 August 2022

Notice of admissions

The Defendant by its solicitors says:

For the purpose of rule 15.15 and 15.16 of the High Court Rules 2016, the Defendant admits:

- 1 the facts set out in the agreed statement of facts dated 8 August 2022; and
- 2 the facts pleaded and cause of action in the statement of claim dated 8 August 2022.

Date: 8 August 2022

.....
DJ Friar | BA Keown
Counsel for the Defendant

Schedule 3: Agreed Statement of Facts

**In the High Court of New Zealand
Wellington Registry**

**I te Kōti Matua o Aotearoa
Te Whanganui-ā-Tara Rohe**

CIV-2022-485-

Under the Financial Markets Conduct Act 2013

Between **Financial Markets Authority**
Plaintiff

And **Cigna Life Insurance New Zealand Limited**
Defendant

Agreed statement of facts

8 August 2022

MC.

Fionnghuala Cuncannon | Paul Comrie-Thomson
PO Box 24546, Wellington 6140
T: +64 4 914 0530
fionnghuala.cuncannon@mc.co.nz |
paul.comrie-thomson@mc.co.nz

Agreed statement of facts

Introduction

- 1 The facts in this statement are agreed between the Financial Markets Authority (Te Mana Tatai Hokohoko) (**FMA**) and Cigna Life Insurance New Zealand Limited (**Cigna**) pursuant to s 9 of the Evidence Act 2006.
- 2 The facts in this statement are in addition to those pleaded in the statement of claim (all of which are also admitted by Cigna) and use the terms defined in the statement of claim.

Nature and extent of the contraventions

- 3 The 10% Indexation Rate and the 5% Indexation Rate were applied for a period of around six years (from 2013 to 2019). The relevant period for the purposes of the contraventions of the FMCA commenced when s 22 came into force on 1 April 2014. Cigna made the false and/or misleading representations for five years after 1 April 2014.
- 4 Cigna's false and/or misleading representations were made in relation to 52,363 Policies containing the Variable-Rate Clauses and Fixed-Rate Clauses between 1 April 2014 and 31 March 2019.
- 5 The contraventions did not arise as the result of a systems error. They were the result of periodic decisions made by senior management at the time, including within Cigna's senior leadership team (as explained further below).

Nature and extent of any loss or damage suffered by any person, and gains made or losses avoided by Cigna

- 6 By applying the 0.3% Indexation Rate, the 5% Indexation Rate, and the 10% Indexation Rate rather than Indexation rates based on CPI or the fixed rate in the Policy, Customers paid, and Cigna received, additional Premiums of \$13,522,689.54 in respect of the 52,363 Affected Policies for the period 1 April 2014 to 31 March 2019. Customers also received, and Cigna was at risk for, increased amounts of Cover. In-force Customers received \$841 million of additional Cover that they would not otherwise have been able to obtain without an underwriting assessment.
- 7 The average amount of additional Premiums paid over the six years from March 2013 was around \$258 in total. The median amount of additional Premiums paid was \$69 over the same six year period. The maximum amount of additional Premiums paid by a Customer over the same period was \$33,370.29 in total. The amount of additional Cover obtained by Customers without an underwriting assessment was on average around \$32,500 for the same six year period.
- 8 Cigna's gain reflects the additional Premiums charged to Customers as a result of applying Indexation rates in excess of those it represented to Customers it was charging or would charge. While the total additional Premiums charged were \$13,522,689.54, Cigna has:

- (a) paid out around \$6.051 million as a result of additional Cover Customers obtained through application of the flat rate Indexation increases (that is, Cover it would not have had to pay out had Indexation been in accordance with the terms of Customers' Policies);
 - (b) paid out \$1.765 million in third party commissions; and
 - (c) assessed \$1.15 million in additional premium reserves.
- 9 On this basis, Cigna's net gain is around \$4.556 million. This gain will continue to reduce over time as future claims are paid out in respect of the additional cover.
- 10 While Customers received additional Cover commensurate with the additional Premiums paid and Cigna has paid out around \$6.051 million as a result of the additional Cover Customers obtained, the potential loss to Customers was significant.

Cigna's remediation programme

- 11 In June 2018, the FMA and the Reserve Bank of New Zealand commenced a joint Conduct and Culture Review into the conduct and culture of life insurers in New Zealand, one of which was Cigna. Following the Conduct and Culture Review, in or around February 2019 Cigna commenced an investigation and self-reported to the FMA that it had applied Indexation at rates exceeding CPI.
- 12 In or around September 2019 it initiated a remediation programme, in relation to its application of Indexation rates that were inconsistent with the terms of the Variable-Rate Clauses and the Fixed-Rate Clauses contained in its Policies and/or potentially inconsistent with its Customers' expectations (**Remediation Programme**).
- 13 Cigna's Remediation Programme covers Policies where the Indexation rate applied did not match:
- (a) the rate of CPI (in respect of Policies containing the Variable-Rate Clauses); or
 - (b) the fixed rate specified in the Policy Documents (in respect of Policies containing Fixed-Rate Clauses),
- from March 2013 to January 2021 (**Remediation Period**).
- 14 Cigna treated all of the affected Policies as in scope for remediation.
- 15 Under its Remediation Programme Cigna offered:
- (a) Customers who had received Indexation increases during the Remediation Period and who continued to hold Policies (**Existing Customers**) the option of:
 - (i) maintaining the higher level of Cover (and associated Premiums); or
 - (ii) reducing their level of Cover (and associated Premiums) to the sum that would have been insured had Indexation matched

published CPI or the relevant fixed rate, together with a refund reflecting the amount charged for Premiums above the amount that would have been charged for Premiums had Indexation matched published CPI or the relevant fixed rate (plus interest at 4%);

- (b) Existing Customers who had declined Indexation increases the option of:
 - (i) maintaining the lower level of Cover (and associated Premiums); or
 - (ii) increasing their level of Cover (and associated Premiums) to the sum that would have been insured had Indexation matched published CPI or the relevant fixed rate;
- (c) Existing Customers who had received Indexation increases in certain periods and declined Indexation increases in other periods the options referred to in (a) or (b) depending on whether the Customer's Cover was higher or lower than it would have been if Indexation had matched published CPI or the relevant fixed rate;
- (d) Existing Customers with Policies containing Fixed-Rate Clauses who received a lower Indexation rate than they were entitled to under their Policies the option of adjusting their Cover to the level of Cover that ought to have been applied; and
- (e) Customers who had received Indexation increases during the Remediation Period and who no longer held Policies (**Former Customers**) a refund reflecting the amount charged for Premiums above the amount that would have been charged for Premiums had Indexation matched published CPI or the relevant fixed rate (plus interest at 4%), unless:
 - (i) the refund amounted to \$20 or less; and
 - (ii) the Customer had not contacted Cigna seeking a refund,in which case Cigna retained the refund amount for payment to charity.

16 Cigna divided Policies into seven groups based on the value of the potential refund payable:

- (a) **Group One** constituted Policies where the potential refund payable was \$7,000 or more.
- (b) **Group Two** constituted Policies where the potential refund payable was between \$2,000 and \$6,999.
- (c) **Group Three** constituted Policies where the potential refund payable was between \$1,000 and \$1,999.
- (d) **Group Four** constituted Policies where the potential refund payable was between \$501 and \$999.

- (e) **Group Five** constituted Policies where the potential refund payable was between \$101 and \$500.
 - (f) **Group Six** constituted Policies where the potential refund payable was between \$21 and \$100.
 - (g) **Group Seven** constituted Policies where the potential refund payable was \$20 or less.
- 17 These groupings determined the type of communication Cigna used with Customers under its Remediation Programme:
- (a) Customers with Policies within Group One received a letter, a phone call from a Cigna senior executive, a dedicated case manager, and a notification to the Customer's broker.
 - (b) Existing Customers with Policies within Group Two received an email or letter, with two follow-up emails or letters (if Cigna had received no response to the prior emails or letters), and an attempt to contact the Customer via telephone (until around November or December 2020).
 - (c) Existing Customers with Policies within Group Three to Group Seven received an email or letter, with two follow-up emails or letters (if Cigna had received no response to the prior emails or letters).
 - (d) Former Customers with Policies within Group Two to Group Six received an email or letter.
 - (e) Cigna did not proactively contact Former Customers with Policies within Group Seven.
- 18 Cigna developed different remediation options to address nine different scenarios by which an Existing Customer may have been affected by Cigna's approach to Indexation. It developed template communications to be sent to Existing Customers (other than those within Group One) for eight of the nine scenarios (the **Scenario Letters**).
- 19 In October 2019, Cigna provided the FMA with further information as to the Indexation issues. This included a detailed outline of its Indexation issues and the approach it was proposing to take to remediation and Customer contact. It stated that "We have decided to contact all customers who had Indexation on their policies between 2013 and 2018 and ensure their Cover is appropriate for their current needs."
- 20 The aim of Cigna's approach was to deliver overall good Customer outcomes and ensure that Customers did not feel they had been disadvantaged by Cigna's Indexation practices. Cigna defined the potential remediation population broadly and adopted remediation assumptions that favoured Customers.
- 21 Cigna developed separate letters to be sent to Former Customers and all Customers with Policies within Group One.
- 22 The Scenario Letters included:
- (a) the **Scenario One Letter**:

- (i) which applied in respect of 23,502 Policies and addressed the scenario where an Existing Customer had received Indexation increases in excess of CPI or a fixed rate during the Remediation Period meaning the Customer had paid higher Premiums and received more Cover than if Indexation had matched published CPI or the relevant fixed rate (**Scenario One**); and
 - (ii) in relation to which, under Cigna's remediation options, the Customer was to be offered the options of:
 - (A) maintaining the higher level of Cover and Premiums; or
 - (B) reducing their level of Cover (and associated Premiums) to the sum that would have been insured had Indexation matched published CPI or the relevant fixed rate, together with a refund reflecting the amount charged for Premiums above the amount that would have been charged for Premiums had Indexation matched published CPI or the relevant fixed rate (plus interest at 4%); and
- (b) the **Scenario Two Letter**:
- (i) which applied in respect of 1,246 Policies and addressed the scenario where an Existing Customer had received Indexation increases in excess of CPI or a fixed rate during the Remediation Period, but had independently adjusted their Cover on some date or dates during the same period, meaning the Customer had paid higher Premiums and received more Cover than if Indexation had matched published CPI or the relevant fixed rate (**Scenario Two**); and
 - (ii) in relation to which, under Cigna's remediation options, the Customer was to be offered the options of:
 - (A) maintaining the higher level of Cover and receiving a refund reflecting the amount charged for Premiums above the amount that would have been charged for Premiums had Indexation matched published CPI or the relevant fixed rate (plus interest at 4%) in respect of Premiums paid prior to the Customer's independent adjustment; or
 - (B) reducing their level of Cover (and associated Premiums) to the sum that would have been insured had Indexation matched published CPI or the relevant fixed rate, together with a higher refund reflecting the amount charged for all Premiums above the amount that would have been charged for Premiums had Indexation matched published CPI or the relevant fixed rate (plus interest at 4%).

23 The FMA considers and Cigna accepts that the Scenario One and Scenario Two Letters did not explain to Customers that:

- (a) Cigna had applied Indexation increases inconsistent with the terms of the Customer's Policy during the Remediation Period; and
- (b) they had received more Cover than they had contracted for, and therefore more Cover than they may have wanted.

24 Accordingly, Cigna has agreed to send further letters to Customers who received the Scenario One or Scenario Two letters and elected to maintain their existing level of Cover (and therefore did not request the refund or higher refund that they were offered).

25 These further letters will explain that the FMA has completed an investigation into Cigna and that Cigna has admitted that it applied Indexation increases inconsistent with the terms of the Customer's Policy during the Remediation Period. The letters will say that, in its earlier communications, Cigna had already given Customers a choice to change their level of Cover to ensure that it was right for them. The letters will then say that Customers should continue to ensure that their Cover is adequate for their needs and that they should contact Cigna if they have any questions about their Cover or the contents of the letter.

26 To date, Cigna has repaid \$10,786,685 (including interest) of additional Premiums to Customers through its Remediation Programme.

The circumstances in which the contraventions took place

27 In or around October 2012, Cigna moved the Indexation rate from 5.3% to 2.5% for many Policies that contained Variable-Rate Clauses. This change was made to reflect a drop in the CPI rate to closer to 1% and the minimum Indexation in certain Policies of 2% and 2.5%.

28 In late December 2012, Cigna's senior management discussed the changes to the Indexation rates. It was noted that there had been no visibility or sign off of the change and no consideration given to the impact it would have for revenue and sales. Senior management accordingly decided to apply the 5% Indexation Rate to Policies that contained Variable-Rate Clauses (other than the 10% Policies). The 5% Indexation Rate was first notified to Customers on or about 25 January 2013.

29 The FMA acknowledges that Cigna sought some legal advice in 2012 from an external, appropriately qualified lawyer, prior to implementing the 5% Indexation Rate.

30 Cigna reviewed its Indexation practices in 2014 and 2015. The 2015 Indexation Benefit Review arose out of concerns raised by the Appointed Actuary in 2015 as to whether Cigna was meeting Customer expectations and operating in accordance with its Policy wordings for the Variable-Rate Clauses and some changes were made to Cigna's practices.

31 Cigna also obtained legal advice in 2015 regarding the application of the flat Indexation rates and the terms of the Annual Notification Letters from the same lawyer during the course of the 2015 Indexation Benefit Review.

32 The same lawyer provided further advice on the terms of the Annual Notification Letters in 2017.

- 33 While Cigna generally followed this legal advice by reducing the Indexation rate to 0.3% for Policies with the Official Rate of Indexation Clauses and making amendments to the Annual Notification Letters, it did not individually review each of its many Policy wordings nor did it formally review its Indexation rates each year to maintain some relativity with CPI or amend its Policy wordings going forward to avoid the issue altogether.
- 34 Cigna acknowledges, however, that it did not give sufficient consideration to whether or not the 0.3% Indexation Rate, the 5% Indexation Rate or the 10% Indexation Rate reflected Customers' expectations. While Customers could opt-out of the automatic Indexation increase and, following the 2015 Indexation Benefit Review, were expressly given the option in the Annual Notification Letters of contacting Cigna to increase their Cover by a different amount, the burden was on the Customer to determine whether an alternative Indexation rate would better meet their needs.
- 35 Cigna also acknowledges that it ought to have more carefully considered whether changes to its Policy Documents and communications were required to ensure that Customers (both existing and future) would not be misled. Cigna acknowledges that firms should, when considering whether to make changes to their practices, consider the effects of such changes and whether updates are required to the terms of their products or services. However, Cigna continued to sell Policies with the Variable-Rate Clauses to Customers after it had adopted either the 5% Indexation Rate or continued the 10% Indexation Rate from 25 January 2013 to 31 March 2019.
- 36 The FMA acknowledges that Cigna did not intend to breach the Act.

Previous contraventions

- 37 Cigna has admitted liability under s 536 of the FMCA for breaches relating to misleading representations ANZ made when issuing monthly credit card repayment insurance (**CCRI**) Policies with Cigna, and it has entered into an enforceable undertaking to the FMA.
- 38 However, the Indexation issues subject of the present proceeding pre-date the CCRI issues and Cigna's self-report of the Indexation issues also pre-dated its self-report of the CCRI issues. In light of those matters, the FMA considers that Cigna can appropriately be treated as being in the same position as a party that has not previously contravened the FMCA.

The relationship between Cigna and its Customers

- 39 Cigna acknowledges that providers of financial services, including insurers, have a special relationship of trust with their Customers, and that Customers are entitled to trust that Cigna will be clear and transparent in its communications with its Customers.

Size and resources of Cigna

- 40 Cigna is a wholly-owned subsidiary of Cigna New Zealand Holdings Limited. Its ultimate parent company is Chubb Limited (NYSE: CB), a Fortune 500 insurance and financial services company.

- 41 Cigna’s Premium revenue from insurance contracts for:
- (a) the year end 31 December 2020 was \$270,969,000; and
 - (b) the year end 31 December 2021 was \$302,629,000.

Co-operation and process improvements

- 42 In early 2019, Cigna adopted an enhanced product development process, and in January 2020, Cigna adopted enhanced formal processes for identifying and applying Indexation increases.
- 43 Cigna advised the FMA at an early stage of the approach it intended to take to remediation and Customer contact. It kept the FMA regularly informed of the steps it was taking throughout the process and it kept the FMA up to date with its Customer contact and Remediation Programme at all times.
- 44 Cigna also co-operated with the FMA throughout the investigation. Cigna acknowledged and accepted it had contravened the FMCA at the earliest possible stage in this proceeding, and it has agreed to settle the proceeding on terms acceptable to the FMA.

Date: 8 August 2022

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FJ Cuncannon | PIC Comrie-Thomson
Counsel for the Plaintiff

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DJ Friar | BA Keown
Counsel for the Defendant

Schedule 4: Joint Memorandum of Counsel

**In the High Court of New Zealand
Wellington Registry**

**I te Kōti Matua o Aotearoa
Te Whanganui-ā-Tara Rohe**

CIV-2022-485-

Under the Financial Markets Conduct Act 2013

Between **Financial Markets Authority**
Plaintiff

And **Cigna Life Insurance New Zealand Limited**
Defendant

**Joint memorandum of counsel requesting
penalty hearing**

8 August 2022

MC.

Solicitors:

FJ Cuncannon | PIC Comrie-Thomson

PO Box 24546, Wellington 6140

T: +64 4 914 0530

Fionnghuala.Cuncannon@mc.co.nz | Paul.Comrie-
Thomson@mc.co.nz

Joint memorandum of counsel requesting penalty hearing

May it please the Court

- 1 The parties have resolved this matter and entered into a settlement agreement. Accordingly, the parties have filed the following documents with the Court, along with this memorandum:
 - (a) statement of claim;
 - (b) agreed statement of facts; and
 - (c) notice of admissions.
- 2 The parties have agreed that initial disclosure is not required, in accordance with r 8.4(3) of the High Court Rules 2016.
- 3 As part of the resolution, the parties have agreed a starting point for a pecuniary penalty to be recommended for the Court's consideration. The parties have not reached agreement on the appropriate discount.
- 4 The parties therefore respectfully seek directions that:
 - (a) a one and a half hour fixture is scheduled for determination of the appropriate pecuniary penalty in consultation with counsel as to their availability;
 - (b) the FMA's submissions, or any joint submission, are filed 10 working days prior to the hearing; and
 - (c) the Defendant's submissions (if filed separately) are filed five working days prior to the hearing.
- 5 The parties are generally available to appear at any fixture in October to December, save for the following dates on which they are not available:
 - (a) 10–14, 20–21, and 27–28 October 2022;
 - (b) 11–28 November 2022; and
 - (c) 5–9 and 12 December 2022.

Date: 8 August 2022

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FJ Cuncannon | PIC Comrie-Thomson
Counsel for the Plaintiff

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DJ Friar | BA Keown
Counsel for the Defendant