

## Press release

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# FINMA orders CSS to reimburse premiums to policyholders with supplementary health insurance

**The Swiss Financial Market Supervisory Authority FINMA has concluded enforcement proceedings against the CSS Group company operating in the supplementary health insurance business. The proceedings have revealed shortcomings in business with external intermediaries and shown that CSS Versicherung AG allocates parts of the distribution and administrative costs unilaterally within the Group to the detriment of supplementary health insurance policyholders. FINMA has ordered excessive premiums in the total amount of CHF 129 million to be reimbursed to the affected supplementary health insurance policyholders.**

Following an on-site supervisory review, FINMA intensified its supervisory activity with regards to the supplementary health insurance business of CSS in summer 2019. In April 2020, FINMA initiated enforcement proceedings against the supervised CSS Group company, CSS Versicherung AG. Those proceedings have now been concluded by FINMA following an extensive investigation.

The FINMA proceedings revealed that CSS Versicherung AG was responsible for serious breaches of supervisory law between 2013 and 2019. These are based on deficiencies in the intermediary business and administrative costs charged unilaterally within the Group at the expense of supplementary health insurance policyholders.

### **Inadequate business with external intermediaries**

CSS collaborated intensively with a specific insurance brokerage company during the investigated period. Despite repeated warnings from the internal audit department, CSS insufficiently recorded, limited and monitored the risks arising from the business relationship with this intermediary and developed a certain degree of dependency. As a result, CSS paid broker's commissions that were partially not economically justified in the period from 2012 to 2014, which called into question the profitability of the new contracts. In addition, until 2018 CSS charged the supplementary insurance business for all commission payments made by the Group. The brokerage

costs for all new contracts were thus exclusively borne by the supplementary health insurance policyholders although those costs demonstrably related to mandatory health insurance as well.

### **Non-causative allocation of administrative costs**

FINMA subsequently reviewed the general allocation of administrative costs at the expense of supplementary insurance. The investigation revealed that indirect costs, specifically for internal work in favour of supplementary insurance, were not assigned in a sufficiently causative manner. The allocation formulas are designed to the disadvantage of supplementary insurance or consist of an economically unverifiable fixed percentage.

Furthermore, FINMA discovered that supplementary insurance is charged with further non-causative costs and has, for example, for years borne by far the largest share of marketing and all advertising costs of the entire CSS Group.

### **Incorrect basis for tariff approval**

In the tariff approval procedure, FINMA reviews the tariff calculations submitted by the insurance companies in terms of whether the tariffs might be abusive. Due to incorrect allocations by CSS, unjustified administrative costs were included at the time in the tariff calculations. Based on these circumstances, FINMA was consequently unable to conduct its audit mandate correctly and ultimately approved excessively high tariffs. As a result, CSS transferred unjustified administrative costs to a significant extent to the premiums of supplementary health insurance policyholders for many years.

Calculations in the enforcement proceedings revealed that for the years 2013 to 2019 administrative costs of at least CHF 129 million were unjustifiably included in the tariff calculations and transferred to the premiums of the supplementary health insurance policyholders.

### **FINMA measures to protect policyholders**

In order to restore compliance with the regulatory requirements and protect the policyholders, FINMA has ordered CSS to reimburse premiums in favour of the affected supplementary health insurance policyholders in the amount of CHF 129 million. The premium reimbursement will benefit supplementary health insurance policyholders who held supplementary insurance with CSS Versicherung AG in the period between 1 January 2013 and 31 December 2019, whereby the amount in each individual case will depend on the type of product, policy duration and individual premium amount.

CSS introduced measures to improve the intermediary business some years ago. The collaboration with the mentioned insurance brokerage company was gradually reduced and terminated in 2020. Commission payments have been correctly assigned within the Group since 2019. FINMA considers the measures meanwhile taken in the intermediary activities of CSS basically to be appropriate for remedying the identified shortcomings.

In relation to the general administrative costs, FINMA has instructed CSS in future to assign these to the individual Group companies according to the actual incurred cost and to define economically comprehensible allocation formulas. This will protect policyholders against future damages due to incorrect allocations.

FINMA's decision does not question the operational activity of CSS. The claims of the policyholders are secured, and solvency rules complied with. FINMA's decision is not final and may be appealed by CSS to the Federal Administrative Court.