
FINAL NOTICE

To: **Sesame Limited**

Authority
Reference
Number: 150427

Address: Independence House
Holly Bank Road
Huddersfield
HD3 3HN

Date: 5 June 2013

ACTION

1. For the reasons given in this notice, the Authority¹ hereby imposes on Sesame Limited (the "Firm"/"Sesame") a financial penalty of £6,031,200.
2. Sesame agreed to settle at an early stage of the Authority's investigation, and therefore qualified for a 30% (stage 1) discount under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed a financial penalty of £8,616,000 on Sesame.
3. The financial penalty imposed comprises two elements:

¹ The Authority means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority

- a. £245,000 in relation to a breach of Principle 9 (Customers: Relationship of Trust) of the Authority's Principles for Businesses (the "Principles") and various Authority Rules; and
 - b. £5,786,200 in relation to a breach of Principle 3 (Management and Control).
4. This Notice relates solely to Sesame's conduct and makes no criticism of Keydata or any person other than Sesame.

SUMMARY OF REASONS

5. On the basis of the facts and matters described below, the Authority considers that:
 - a. between 26 July 2005 and 8 June 2009 Sesame breached Principle 9 and the following rules as set out in the Authority Handbook; COB 5.3.5R and 5.4.3R and COBS 4.5.2R, 9.2.1R, 9.2.2R and 9.2.3R; and
 - b. between 5 July 2010 and 21 September 2012 Sesame breached Principle 3.

Principle 9

6. The Authority found that between 26 July 2005 and 8 June 2009 Sesame failed to take reasonable care to ensure the suitability of its advice and discretionary decisions for customers entitled to rely upon its judgment in breach of Principle 9 and various Authority Rules.
7. Sesame advised 426 customers to invest a total of over £6.1m in Keydata Products during the Relevant Period. These products involved investments in corporate bonds, which used the funds raised to purchase and hold life insurance policies. The vast majority of Sesame's sales were flawed because:
 - a. there was a mismatch between many customers' stated investment objectives and attitude to risk and the product sold;
 - b. the suitability letters provided to customers stated incorrectly that income or capital growth was guaranteed; and/or

- c. customers were advised incorrectly that the Keydata Products were low risk.
- 8. In every case reviewed by the Authority, Sesame failed to explain to customers all of the key risks and failed to give a balanced view of the advantages and disadvantages of the Keydata Products.
- 9. The Authority also found that the risk of unsuitable sales of Keydata Products would have been diminished had Sesame taken reasonable care to ensure the suitability of its ARs' advice. From August 2005, when Sesame reviewed the Keydata Secure Income Bond, Sesame's internal view was that the Keydata Products, which used the funds raised to purchase and hold life insurance policies, presented investors with "*a considerable amount of risk*". Sesame reviewed another Keydata Product, the Secure Income Plan 10, in 2007 and came to this view again. On both occasions, Sesame issued its ARs with a copy of its research but failed to take any further steps to prevent and/or identify the mis-selling of Keydata Products through targeted network supervision, file reviews and MI.

Principle 3

- 10. The Authority also found that between 5 July 2010 and 21 September 2012 Sesame failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, in breach of Principle 3.
- 11. In particular, Sesame failed to take sufficient steps to improve its systems and controls directed at achieving effective oversight of its ARs in that:
 - a. it failed to identify and monitor sales of products and funds which were not suitable for most customers;
 - b. both desk-based file reviews and visits by Network Supervisors were not always suitably robust;
 - c. the MI Sesame used failed to identify higher-risk sales;
 - d. problems with record-keeping for departed and existing ARs continued;
and

e. in terms of Sesame's culture and the importance of treating customers fairly, the language used internally within Sesame supported an incorrect view that ARs are Sesame's customers rather than the end retail customers.

12. This action supports the Authority's regulatory objectives of enhancing the integrity of the UK financial system and the protection of consumers.

DEFINITIONS

13. The definitions below are used in this Final Notice.

The "Act" means the Financial Services and Markets Act 2000 as amended by the Financial Services Act 2012

"AR" means Appointed Representative

"ATR" means attitude to risk

"COB" means the Conduct of Business part of the Authority Handbook, in force until 31 October 2007

"COBS" means the Conduct of Business Sourcebook part of the Authority Handbook, in force since 1 November 2007

"e-NBS" means Sesame's electronic new business systems

The "Authority" means the means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority

"Authority Handbook" means the Financial Conduct Authority's Handbook of Rules and Guidance and the Financial Services Authority's Handbook of Rules and Guidance as it existed until 31 March 2013

The "FSCS" mean the Financial Services Compensation Scheme

"Group" means the corporate group of which Sesame is a member

"IFA" means Independent Financial Adviser

"Keydata" means Keydata Investment Services Limited

"Keydata Products" means investments in corporate bonds, backed by Lifemark and SLS and sold by Keydata, which used the funds raised to purchase and hold life insurance policies, specifically the Secure Income Bond issues 1-4, the Secure Income Plan issues 1-12 and 14 and the Defined Income Plan issues 1-8.

"Lifemark" means Lifemark SA

"MI" means management information

"OIB" means offshore investment bond

"Principles" means the Authority's Principles for Businesses

"Relevant Period" means 26 July 2005 to 21 September 2012, excluding the period between 9 June 2009 and 4 July 2010

"RMP" means Sesame's Risk Mitigation Programme issued by the Authority

"RPL" means Sesame's Recommended Product List

"SSAS" means Small Self Administered Scheme

"SCARPs" means Structured Capital At Risk Products

"Sesame"/ the "Firm" means Sesame Limited

"SIPP" means Self Invested Personal Pension

"Skilled Person" means the skilled person appointed by Sesame in 2009 as required by the Authority under section 166 of the Act

"SLS" means SLS Capital SA

"TCF" means Treating Customers Fairly

The "Tribunal" means the Upper Tribunal (Tax and Chancery Chamber)

FACTS AND MATTERS – PRINCIPLE 9

Background

14. Sesame is an IFA network with advisers throughout the UK. As at June 2009 it had approximately 1,040 ARs who were able to advise on designated investment products amounting to 1,637 individual advisers who offered investment advice (representing 9-11% of the UK financial adviser population).
15. Throughout the Relevant Period, Sesame held permission under Part IV of the Act to carry on, amongst other regulated activities, the following:
 - a. advising on investments; and
 - b. arranging (bringing about) deals in investments.
16. Between 26 July 2005 and 8 June 2009, Sesame sold Keydata Products to 426 customers. These customers invested over £6.1m in the Keydata Products. All of these sales were made on an advised basis, so that Sesame undertook to consider customers' financial circumstances and provide advice on the suitability of a product for the customer.
17. Between 26 July 2005 and 8 June 2009, Sesame and its ARs generated approximately £197,934 in gross commission from the sale of Keydata Products.

Sale of Keydata Products

The Keydata Products

18. Keydata was an Authority authorised product provider which designed and distributed investment products via an extensive network of distributors, including IFAs. The Keydata Products offered investors an income or growth investment, via an ISA, PEP or direct investment. The income option paid a fixed percentage income and aimed, but did not guarantee, to ensure the full return of capital to a customer at the end of a five, seven or ten-year term. The growth option rolled up and reinvested the income payments to provide compound growth over the life of the product and similarly aimed, but did not guarantee, to provide full return of capital at the end of the term.

19. The Keydata Products were based on investments in corporate bonds. On behalf of customers, Keydata purchased bonds which were issued by special purpose vehicles incorporated in Luxembourg. The Keydata Products offered by Sesame were investments in bonds issued by SLS Capital SA ("SLS") and Lifemark SA ("Lifemark"). A full list of all the Keydata Products sold by Sesame is set out in Annex 2 to this notice. The funds raised through the issue of the bonds (i.e. the amount invested by retail customers in the products through Keydata) were then invested in a portfolio of US senior life settlement policies and cash. The Keydata Product materials stated that the investment mix was intended to be 60% policies/40% cash for the bonds issued by SLS, and 70% policies/30% cash for the bonds issued by Lifemark. SLS and Lifemark each purchased life insurance policies from senior US citizens, paid the premiums due on those policies, and collected the maturity payment due under the policy when the individual died.

Distinctive Features of the Keydata Products

20. Product material provided to Sesame's ARs by Keydata revealed that there were a number of significant distinctive features of the Keydata Products compared to products that might reasonably be considered suitable for the customers Sesame were advising, in light of the customers' personal circumstances and objectives. These included the following:
 - a. Although the Keydata Products were intended to return capital in full at the end of the investment period, they offered no capital guarantee, and put all capital invested at potential risk.
 - b. The successful performance of the Keydata Products depended on the accuracy of actuarial models used by Keydata. There was a risk that because of significant technological or pharmaceutical developments and because of increased longevity, the accuracy of the actuarial models used was unreliable.
 - c. The bonds had a fixed term of five, seven or ten years. This meant that Keydata undertook to return funds to customers on the date when the bond matured, even if, at that point in time, it had insufficient funds because the insured individuals were living longer than predicted by the actuarial models used by Keydata.

- d. The underlying insurance policy assets were not traded on an exchange in the way that stocks and shares are. The limited resale market for these assets also created a risk that, if it became necessary to sell an insurance policy to make funds available, this might take longer than anticipated, and this might only be possible at a reduced value, thereby reducing the value of the portfolio.
 - e. The Keydata Products involved investment in a single specialist asset class (US senior life insurance policies) through a single issuer (first SLS, then Lifemark). Although a percentage of the investment was to be held in cash, this was not held as a separate investment, but was intended to be used to pay the insurance premiums, income payments and operational costs associated with the investment.
 - f. The Keydata Products had a significant international dimension: the underlying assets were US life insurance policies, and the issuers of the bonds were based in Luxembourg. As the bond issuer was offshore, customers would not necessarily have recourse to the FSCS statutory compensation scheme in the event of a default of the bond issuer.
21. In order to determine whether the Keydata Products were suitable for Sesame's customers, in light of the customers' personal circumstances and investment objectives, Sesame's ARs, who were advising those customers, should have given careful consideration to these particular features.

Sesame's unsuitable recommendations to invest in Keydata Products

22. Sesame's sale of Keydata Products was the subject of a review conducted by the Authority that included a review of a sample of 17 customer files involving recommendations by Sesame that customers purchase Keydata Products. The Authority found that every single one of these 17 sales was unsuitable. Sesame's parent company reviewed the same 17 files together with a further 20 other files that also included recommendations that customers purchase Keydata Products. This review also concluded that none of the sales of Keydata Products in the 37 files it reviewed was suitable. The Authority thus considers that there is a significant risk that the vast majority of the 426 sales of Keydata Products by Sesame were unsuitable.

23. In particular, from the sample of sales reviewed by the Authority, the following types of failings were identified:
- a. 75% of customers sought to invest in a product with minimal risk to capital, some element of capital protection or that guaranteed a return of the capital invested. The Keydata Products placed all of a customer's invested capital at risk, and so were not suitable for customers with these stated investment objectives.
 - b. 40% of customers sought to invest in a product with a guaranteed income or capital growth. 35% of the suitability letters provided to customers and sampled by the Authority stated incorrectly that income or capital growth was guaranteed. While the Keydata Products' stated aim was to provide regular income or capital growth, this was not guaranteed.
 - c. Sesame emphasised the fact that the Keydata Products were not linked to movements in stocks and shares, but failed to make it clear that these products were at least as risky as many stocks and shares in that the underlying life policies were illiquid. 88% of customers were advised that the product was low risk. This was either explicit, for example when a customer was advised "*the risk is very low compared to equities*", or implicit, for example when a customer was advised that the Keydata Product matched the customer's very cautious ATR. Moreover, from the Authority's sample, not a single customer was properly advised that the income or compound growth offered was conditional on the performance of the underlying assets, the life insurance policies purchased by SLS or Lifemark.
24. In every case reviewed by the Authority, Sesame failed to explain to customers all of the key risks and failed to give a balanced view of the advantages and disadvantages of the product.

Serious nature of the failings

25. The failings identified above were particularly serious because many customers were advised to invest a substantial proportion of their available funds into Keydata Products. As a result, the impact of any unsuitable advice on customers was likely to be particularly significant.

26. The Authority's review of 17 sample files found that 70% of customers sampled had concentration levels of Keydata Products in their investment portfolio that were not aligned with their stated needs and/or attitude to risk and, in 3 of the 17 sample files, customers were advised to invest over 80% of their total available funds in the recommended Keydata Product.
27. The Authority's review of 17 sample files also found that the average age of customers sampled was 60. Accordingly, a significant number of customers were approaching retirement or were already retired. A high exposure to a product with a risk of capital loss may be less suitable for customers in or near retirement, given that they may have difficulty replacing lost capital and may also have limited sources of income and as such may be particularly vulnerable to a loss of income from an investment product.
28. The following sales are examples of unsuitable advice that Sesame gave in relation to the Keydata Products:
 - a. Ms K, 79 years old, was advised by Sesame in September 2006 to invest £138,602 (89% of her savings) in the Keydata Products, despite having a "very cautious" attitude to risk and thus seeking only "*minimum amount of risk to your capital*" (referred to numerically as 2/5 with 5 being the highest risk appetite). She was advised that the Keydata Product was suitable for her very cautious ATR.
 - b. Ms R, 58 years old, was advised in January 2006 to invest £10,000 (24% of her savings) in a Keydata Product. She was in receipt of disability benefits and had an income shortfall of £600 per year at the time she sought Sesame's advice. Sesame classified her ATR as "*low risk*" (referred to numerically as 3/10), seeking only low risk to capital. However, her file notes recorded that she would "*need security of capital*" and "*need guaranteed income and return of capital*" suggesting she did not even seek minimal risk to capital. The suitability letter sent to her after the Keydata Product had been applied for did set out some of the risks involved, but then listed amongst the product's benefits that the investment was lower risk than high yield corporate bonds or equities and that it provided "*guaranteed return of capital*" and "*guaranteed income*", which the AR should have known was not the case.

Sesame's Oversight of ARs

29. During the Relevant Period Sesame maintained a number of systems and controls to achieve effective oversight of its ARs and ensure their compliance with regulatory requirements, these included:
- a. a training and competence scheme for ARs, which included skills and knowledge assessments and ongoing monitoring visits by Account Managers, later termed Network Supervisors;
 - b. product research, to review and provide an opinion on a broad range of products and to identify the best quality products of a particular type for the typical customer. These were then included on a 'Recommended Products List' (the "RPL") and, for every product on the RPL, a bulletin or fact sheet was also produced;
 - c. collating samples of ARs' files (based on the risks that the products sold posed to the customer) to be reviewed by Sesame's file compliance and checking staff, who assessed suitability of advice and the proper recording of that advice, including by reference to a product's risk rating; and
 - d. collating and reviewing MI on sales data using a "Product Risk Matrix", which risk-rated Sesame's sales by combining different risk factors for each product and, from December 2007 onwards, a "Treating Customers Fairly Dashboard" which included the proportion of unsuitable sales identified through desk-based file reviews and the proportion of different product types sold.

Failure to detect and prevent the mis-selling of Keydata Products

30. Due to the inherent risks in the Keydata Products, these specific products were not included in Sesame's RPL. In August 2005 Sesame issued a Product Fact Sheet for the Keydata Secure Income Bond in response to a high number of enquiries from ARs in relation to the investment base of the product and how it operated, why the product did not appear on the RPL and apparent confusion as to whether the product offered capital protection. While this review referred to the first of the Keydata Products to be issued by Keydata, the Secure Income Bond, its observations regarding the risks and uncertainties of the Secure Income Bond read

across to all other Keydata Products. Later issues of the Keydata Products, although differently named, were structured in the same manner as the Keydata Secure Income Bond reviewed by Sesame in 2005, and contained the same inherent risks.

31. The Product Fact Sheet produced by Sesame for the Keydata Secure Income Bond highlighted many of the key risk factors and specific characteristics of the product that have been set out above, namely:
 - a. *"[the Secure Income Bond] is not a capital protected product";*
 - b. *"Although this product has no associated stock market risk, there is nevertheless a considerable amount of risk from other sources";*
 - c. *"There is particular uncertainty regarding both the underlying asset base and the portfolio management approach/capability";*
 - d. *"...it is not certain that the portfolio management structure can deliver the expected return net of costs and expenses";*
 - e. *"...the major uncertainty is the lifespan of the assured";* and
 - f. *"The range of different expected maturities held within the underlying insurance contract portfolio suggests that a significant proportion will continue to be in force when the Secure Investment [sic] Bond matures... Investors bear the risk of any terminal capital shortfall but have no interest in any excess value."*
32. The Fact Sheet concluded that: *"The inherent uncertainties over traded life settlements as an investment type together with the portfolio management approach and structure means that it is not possible to risk-rate this product with any accuracy. In view of these imponderables it might be best to consider this product only as a comparatively small part of a diversified high-income strategy – even on a client specific basis."*
33. This Product Fact Sheet was then circulated to Sesame's ARs as part of the regular bulletin sent by Sesame to its ARs. Further guidance was circulated on another Keydata Product in August 2007 in response to Sesame's awareness that another Keydata Product was being marketed to ARs.

34. Accordingly, Sesame had determined that; (a) the Keydata Products were not suitable for inclusion on the RPL and (b) the risks and uncertainties of the Keydata Products were such that they should only be considered as a "*comparatively small part of a diversified high-income strategy*".
35. Notwithstanding these clear conclusions Sesame did not take any further steps to monitor sales of the Keydata Products. Those steps could have included that:
 - a. a specific product code be adopted for ARs to record sales of Keydata Products or other traded life policy investments when providing sales data to Sesame;
 - b. ARs and file-review staff be trained on the specific characteristics and risks of traded life policy investments;
 - c. AR supervisors identifying and reviewing sales of Keydata Products or other traded life policy investments in their supervisory visits.
36. For the reasons Sesame set out in its review of the Keydata Secure Income Bond in August 2005, none of the Keydata Products were included in the Sesame RPL as they all related to investments in corporate bonds which used the funds raised to purchase and hold life insurance policies. Therefore, when reviewing a file in which an AR advised a customer to purchase a Keydata Product, Sesame's file reviewer should have, in accordance with Sesame's internal policies, obtained a risk-rating for the Keydata Product from those who had reviewed the Keydata Secure Income Bond.
37. Between 26 July 2005 and 8 June 2009, Sesame file reviewers reviewed 45 sales of Keydata Products. Despite the guidance on the risks inherent in the Keydata Products available in the Product Fact Sheets from those who had reviewed the Keydata Secure Income Bond, Sesame only identified four of the 45 sales as being unsuitable. The 41 sales considered suitable included those of Ms R and Ms K described above. Of the 41 files originally deemed suitable, nine were also subject to a second quality assurance file review which found all of these sales to be suitable.

Authority publications

38. During the Relevant Period the Authority has highlighted repeatedly the importance for AR networks to have in place adequate systems and controls to monitor its ARs. In December 2005 the Authority published a factsheet which emphasised that an AR network's senior management should establish and maintain effective systems and controls to comply with Authority requirements for monitoring ARs. The organisation and responsibilities of a network's compliance function should be documented and it should have enough competent staff who are sufficiently independent to perform their duties objectively.
39. In December 2007, following a review of systems and controls, recruitment, training and competence and culture of Treating Customers Fairly, the Authority published a further Factsheet. This noted the risks of firms' written procedures not being followed in practice; too much reliance being placed on the remote checking of client files; poor progress with Treating Customers Fairly with ineffective communication to ARs; and not having appropriate management information or measures in place to test whether ARs are delivering the Treating Customers Fairly consumer outcomes. The accompanying Authority guidance stressed the importance for AR networks to have rigorous management information to allow close and continuous supervision and monitoring of ARs, as well as the importance of demonstrating that file checks cover the suitability of the advice given to customers.

FACTS AND MATTERS – PRINCIPLE 3

Systems and Controls reviews in 2009 – 2012

40. During the Relevant Period Sesame received supervisory visits from the Authority in mid-2005, mid-2007, mid-2009 and late 2011 as well as other Authority thematic visits. In its 2009 visit, the Authority had specific concerns with the systems and controls for suitability of advice and record-keeping and thus required Sesame to make a series of improvements and also to appoint a skilled person (the "Skilled Person") under section 166 of the Act, to review the adequacy and effectiveness of Sesame's reworked compliance oversight and AR control frameworks, assess suitability of past business and provide an action plan for improvements and remedial action where appropriate.

41. The Skilled Person reported on 4 July 2010 that a past business review of 100 designated investment files had not found evidence of widespread unsuitable advice and that Sesame's compliance oversight and AR control frameworks appeared largely fit for purpose. Nevertheless, the Skilled Person noted that there were a number of cases that contained insufficient evidence and would need further work before a definitive view could be formed on whether customers had been treated fairly.
42. An Authority visit in 2011 identified other ongoing risks, as a result of which the Authority required Group Internal Audit function to undertake an annual review of Sesame and provide assurance to the Authority that Sesame had adequate controls in place, that those controls were being followed and that adequate records were being maintained.
43. Group Risk and Group Internal Audit functions undertook the required review between June and September 2012 and issued their reports on 20 and 21 September 2012. Their conclusion was that a significant number of weaknesses within Sesame's control environment persisted. Many of these issues had been highlighted previously by the Authority in 2005, 2007 and/or 2009.

Quality of advice controls

44. Group Internal Audit found continuing professional development was maintained and recorded by the individual AR firms, including whether they had read Sesame's Compliance Adviser Bulletin. There was therefore inadequate testing by Sesame that ARs had read and understood the Compliance Adviser Bulletin. Group Internal Audit recommended that Sesame consider automating the Compliance Adviser Bulletin, including adding this to the AR's record, and including an assessment test. Similarly, in 2009, the Authority had stressed to Sesame that it faced significant challenges around ensuring that its ARs read and understood key issues communicated via a large number of email publications.
45. Despite Sesame's awareness of repeated Authority concerns regarding the quality of desk-based file reviews raised following Authority visits in 2005, 2007 and 2009, this problem had persisted until at least September 2012 - the sample review of files carried out by Group Risk indicated deficiencies with the quality of current desk-based file reviews, notably in relation to pension switching advice.

46. Group Risk and Group Internal Audit found also that Sesame was still operating insufficient controls to prevent the sale of products considered likely to be unsuitable by Sesame's central control functions. This comment should be considered in light of the following:
- a. In May 2009, following an Authority thematic review, the Authority informed Sesame that it had found significant failings in the quality of advice given by Sesame on Lehman-backed structured products. Sesame sold between 100 and 150 Lehman-backed structured products. Of these, 14 files were sampled by the Authority, of which five were deemed unsuitable, three unclear and only six suitable. Sesame subsequently undertook a past business review of the sales of Lehman-backed structured products and, where appropriate, provided redress to consumers.
 - b. In July 2010, the Skilled Person did not identify systemic concerns with the suitability of advice. However, a definitive view of the suitability of the full file review population could not be determined due to issues of record keeping by ARs.

Suitability of advice

47. Group Risk reviewed a sample of 168 files relating to sales of designated investments between January and September 2012 to assess the suitability of advice provided to customers. From this sample of 168 files, only 86 files (51%) were assessed as suitable. The remaining files were either not obtained by Sesame from its ARs (16 files –10%), were missing key documents (14 files – 8%) or did not contain sufficient information in the documents held on file to be able to assess suitability (35 files –21 %) or showed unsuitable advice to customers (17 files – 10%).
48. 12 of these 17 files deemed to be unsuitable related to pension switching advice and had thus been reviewed by Sesame's desk-based file reviewers as Sesame checked all pension switching advice. However, Sesame had only identified 4 of the 12 files as being unsuitable.

Record-keeping

49. The high proportion of files where suitability could not be assessed (a total of 65 files – 39%) is a further indication that Sesame had yet to resolve record keeping issues, particularly with regard to retrieving files from ARs. This issue had already been highlighted by the Authority in its 2005, 2007 and 2009 visits. The Authority's 2009 RMP stressed that it was not acceptable to have to undertake further investigation to demonstrate that advice was suitable, particularly as this process would be heavily reliant on the AR remembering correctly the details of each case and could be unreliable. The Skilled Person in 2010 reported that it could not confirm definitively the effectiveness of Sesame's systems and controls and the suitability of Sesame ARs' advice because there were a substantial number of cases that contained insufficient evidence.

TCF Culture

50. In terms of Sesame's culture and the importance of treating customers fairly, the language used internally within Sesame supported an incorrect view that ARs are Sesame's customers rather than the end retail customers. In addition, Network Supervisors observed by Group Risk exhibited a relationship management approach when visiting ARs rather than a challenge and feedback approach. The importance of this issue had been highlighted previously by the Skilled Person in July 2010, who reported that changes to a more audit/compliance monitoring focused role of the Network Supervisors was a positive step but for supervisors to change the focus and emphasis of their day to day activities from a service-provision function to a regulatory oversight function remained a key challenge. In addition, only a small number of ARs or individual advisers were suspended or terminated as a result of quality issues or being on an internal list of high risk members for over six months. This had already been brought to Sesame's attention by the Authority in the RMP issued in May 2009 which highlighted a lack of sanctions where mis-selling was found.

Governance

51. Sesame's "second line of defence" had only a limited second line check of Sesame policy and guidance against the Authority Handbook to ensure compliance with

regulations. Then, in July 2010, the Skilled Person noted that there was the potential for some blurring of the first and second lines of defence as senior compliance management played a key role in both which should be revisited to ensure that there was a correct balance of independent oversight and challenge.

MI

52. In relation to MI, Group Risk and Internal Audit found that deficiencies in Sesame's MI included committee MI not being detailed enough, lacking commentary and analysis and not highlighting control weaknesses, high-risk product MI only being produced twice a year with the definition of high-risk products being insufficiently robust and no trend analysis on high-risk products.
53. The Authority has also identified further persistent deficiencies in Sesame's controls and MI. In particular:
 - a. Sesame's e-NBS system remained vulnerable to errors by ARs when inputting data regarding new sales. This meant that throughout the Relevant Period some high risk sales were at risk of being incorrectly inputted, miscategorised as low risk and misrepresented in important MI, for example in Sesame's Product Risk Matrix, and consequently not selected for review as part of the file review process. This vulnerability persisted despite the Skilled Person highlighting in July 2010 that there were also high levels of manual interventions which presented an inherent controls risk. For example, approximately 15% of entries into the e-NBS system had errors whose impact varied in materiality but could in some instances result in a high risk sale being miscategorised as low risk and thus not selected for review.
 - b. Where advice was given to place investments into an open-architecture tax efficient wrapper, namely an ISA, a SIPP, a SSAS or an OIB, the sale that was recorded on Sesame's e-NBS system was the sale of the wrapper and not the underlying investment product. Sesame's MI would therefore not detect high-risk products, such as unregulated collective investment schemes, sold through one of these tax efficient wrappers.

Sesame's response to mis-selling of Keydata Products and 2012 Group Reports

54. In response to the Authority's concerns, Sesame has undertaken on a voluntary basis a past business review to identify and provide redress to those customers who received unsuitable advice from Sesame leading to the purchase of a Keydata Product but who have not received compensation from the FSCS for any losses incurred as a result of their investment. This past business review has involved a substantive review of 18 sales of Keydata Products. 17 sales were considered unsuitable and one was unclear. Of the 17 unsuitable sales 12 did not require redress due to FSCS compensation or early redemptions. Sesame has however made, or offered to make, a redress payment of £126,445 to the remaining five customers for losses suffered as a result of these unsuitable sales.
55. The Authority notes that Sesame has taken steps to improve its systems and controls. In addition, since September 2012, Sesame has been working on the implementation of a business change programme, including a number of new appointments to its executive team and Board.
56. Sesame has also agreed to conduct a risk-based past business review to identify and provide redress to those customers who suffered loss as a result of receiving unsuitable advice to switch their pension savings from one pension product to another between 5 July 2010 and 21 September 2012.

FAILINGS

57. The regulatory provisions relevant to this Final Notice are referred to in Annex 1.

Breach of Principle 9 and rules in COB and COBS

58. Between 26 July 2005 and 8 June 2009 Sesame advised 426 customers to invest a total of over £6.1m in the Keydata Products. The vast majority of these sales contained one or more of the following failings:
- a. there was a mismatch between many customers' stated investment objectives and attitude to risk and the product sold;
 - b. the suitability letters provided to customers stated incorrectly that income or capital growth was guaranteed; and/or

c. customers were advised incorrectly that the Keydata Products were low risk.

59. In every case reviewed by the Authority Sesame had failed to explain to customers all of the key risks and failed to give a balanced view of the advantages and disadvantages of the Keydata Product.
60. The Authority found also that the risk of unsuitable sales by Sesame's ARs would have been diminished had it not been for Sesame's failure to take reasonable care to ensure the suitability of its ARs' advice. Sesame's considered view of the Keydata Secure Income Bond was that it presented investors with "*a considerable amount of risk*", did not guarantee return of capital and that there was uncertainty regarding its underlying asset base and management approach/capability. These concerns were shared with the relevant internal committee but it failed to take reasonable steps to prevent and/or identify the mis-selling of Keydata Products.
61. By failing to take proper account of its own assessment of the high risk nature of the Keydata Products, Sesame failed to undertake effective monitoring of the sales of Keydata Products. As a result, Sesame failed to identify that ARs did not make the investment risks clear to customers and recommended Keydata Products to customers whose ATR did not indicate a willingness to expose themselves to the risk of potentially losing all their capital.
62. Sesame's desk-based file reviewers also failed to identify the unsuitable sales of Keydata Products and failed to consider Sesame's review of the Keydata Secure Income Bond. This was despite Sesame having an internal policy that where its file reviewers could not check a product's risk-rating by reference to Sesame's RPL a file reviewer was meant to contact others within Sesame with the appropriate expertise to determine the risk-rating for the product. The desk-based file reviewers also classified incorrectly 41 of the 45 Keydata Product sales they reviewed as being suitable.
63. This demonstrates that between 26 July 2005 and 8 June 2009 Sesame failed to take reasonable care to ensure the suitability of its advice and discretionary decisions for clients who were entitled to rely upon its judgment, in breach of Principle 9. In addition, Sesame breached COB 5.3.5R and 5.4.3R and COBS 4.5.2R, 9.2.1R, 9.2.2R and 9.2.3R.

Breach of Principle 3

64. On 4 July 2010, the Skilled Person reported that it had not found evidence of widespread unsuitable advice and that Sesame's compliance oversight and AR control frameworks appeared largely fit for purpose. Nevertheless, the Skilled Person's findings in relation to the files it reviewed confirmed the FSA's concerns from its own 2009 supervisory visit that there was a very poor level of record-keeping. In light of these findings the Skilled Person was unable to confirm definitively the suitability of ARs' advice.
65. Between June and 21 September 2012, Group Risk and Group Internal Audit identified a significant number of weaknesses within Sesame's control environment, including:
- a. there was inadequate testing by Sesame that ARs had read and understood the Compliance Adviser Bulletin;
 - b. Network Supervision visits to ARs were not sufficiently effective in focussing on higher risk ARs and effecting a change in behaviour;
 - c. Sesame's desk-based file reviews still showed areas of significant weakness in identifying unsuitable sales;
 - d. Sesame was still operating insufficient controls to prevent the sale of products considered likely to be unsuitable by Sesame's central control functions;
 - e. that Sesame had yet to resolve issues with ARs' record-keeping and retrieving files from ARs;
 - f. the language used internally within Sesame supported the incorrect view that ARs are Sesame's customers rather than the end retail customers;
 - g. Sesame did not provide sufficient deterrence across the network as only a small number of ARs or individual advisers were suspended or terminated as a result of the quality of their advice;

- h. Sesame's "second line of defence" remained limited with insufficient second line checks of Sesame policy and guidance against the Authority Handbook to ensure compliance with regulations;
 - i. deficiencies in Sesame's MI included committee MI not being detailed enough, lacking commentary and analysis and not highlighting control weaknesses, high-risk product MI only being produced twice a year with the definition of high-risk products being insufficiently robust and no trend analysis on high-risk products.
66. The Authority's investigation into mis-sold Keydata Products also identified further persistent deficiencies in Sesame's MI. In particular:
- a. Sesame's e-NBS system remained vulnerable to errors by ARs when inputting data regarding new sales, with some higher risk sales at risk of being miscategorised; and
 - b. advice to place investments into an open-architecture tax efficient wrapper was recorded on Sesame's e-NBS system under the wrapper and not the underlying investment product.
67. The above demonstrates that between 5 July 2010 and 21 September 2012 Sesame failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, in breach of Principle 3, in relation to the sale of designated investment products including, but not limited to, pension products.

SANCTION

68. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP.
69. Changes to DEPP were introduced on 6 March 2010. Given that the breach of Principle 9 occurred prior to that date and the breach of Principle 3 occurred after that date, the Authority has had regard to the provisions of DEPP in force prior to 6 March 2010 in respect of the breach of Principle 9 and the provisions of DEPP in force from 6 March 2010 in respect of the breach of Principle 3.

70. Guidance on the imposition and amount of penalties for misconduct, in respect of the breach of Principle 9, which occurred prior to 28 August 2007, is set out in ENF. We have accordingly had regard to the ENF provisions on penalty policy that were in force at the time of the earlier misconduct as well as to those in Chapter 6 of DEPP.

Penalty for breach of Principle 9 under DEPP 6.5.2G

71. The Authority considers the following DEPP factors to be particularly important in assessing the sanction for Sesame's breach of Principle 9.

Deterrence – DEPP 6.5.2G (1)

72. The principal purpose of a financial penalty is to promote high standards of regulatory conduct by deterring firms who have breached regulatory requirements from committing further contraventions, helping to deter other firms from committing contraventions, and demonstrating generally to firms the benefits of compliant behaviour.

Nature, seriousness and impact of the breach – DEPP 6.5.2G (2)

73. In determining the appropriate sanction, the Authority has had regard to the seriousness of the contraventions by Sesame, including the nature of the requirements breached and the duration of breaches.
74. Sesame's breaches were serious. They involved unsuitable advice being provided to 426 separate customers, with many of those customers investing a significant proportion of their life savings.
75. They also revealed systemic weaknesses in Sesame's internal controls, with file reviewers systematically not following procedures and thus failing to check product risk-ratings with those within Sesame who held the appropriate expertise. The failure to detect and prevent the mis-selling of Keydata Products, despite it coming to the attention of the relevant committee twice, revealed Sesame's inability to respond appropriately to the risks posed by new higher risk products and to identify unsuitable advice in non-standard products through file reviews.

The size, financial resources and other circumstances of the firm – DEPP 6.5.2 G (5)

76. The Authority has taken into account Sesame's size and financial resources. Sesame is a major IFA network with over 2,000 individual advisers. There is no evidence to suggest that Sesame is unable to pay the penalty.

The amount of benefit gained or loss avoided – DEPP 6.5.2G (6)

77. As noted above, Sesame and its ARs generated approximately £197,934 during the Relevant Period in gross commission from the sale of Keydata Products.

Conduct following the breach – DEPP 6.5.2G (8)

78. Sesame failed to identify its mis-selling of Keydata Products to its customers, or consider the root causes, until the Authority carried out a review of its sales of Keydata Products in 2011.
79. Moreover, poor levels of record keeping have made it difficult to identify the actual number of Keydata sales made through Sesame. After thorough investigation there is still an element of uncertainty over the total number of affected customers and total amounts invested.
80. However, Sesame and its senior management have worked in an open and cooperative way with the Authority before and during its investigation.
81. Sesame has also now undertaken voluntarily to carry out a customer contact exercise in relation to sales of Keydata Products to customers who have not otherwise obtained redress from the FSCS. This has resulted in a total redress of £126,445 being paid out or being offered to five Sesame customers.

Disciplinary record and compliance history – DEPP 6.5.2G (9)

82. The Authority fined Sesame £330,000 in April 2007 for rejecting inappropriately complaints that arose from the unsuitable sale of SCARPs, between March 2003 and October 2004. SCARPs can be highly complex investment products carrying a high level of investment risk that, in some instances, were mis-sold by Sesame's legacy networks, including to retired customers who were not in a position to replace lost capital. The Authority also found that SCARPs were at that time a new range of complex products and Sesame's complaint handling processes did not

recognise SCARPs as a separate product in their own right which, alongside other facts, should have alerted Sesame to the need for specific training to ensure that complaints handlers were consistent in their handling of SCARPs complaints. Sesame was found to have breached rules in the part of the Handbook entitled Dispute Resolution: Complaints (DISP) and Principles 2 and 6 of the Authority's Principles for Businesses.

Other action taken by the Authority

83. In determining the level of financial penalty, the Authority has taken into account penalties imposed by the Authority on other authorised persons for comparable behaviour.

Conclusion for breach of Principle 9 and COBS rules

84. Sesame has agreed to settle at an early stage of the Authority's investigation, and therefore qualifies for a 30% (stage 1) discount under the Authority's executive settlement procedures.
85. The Authority has therefore decided to impose a financial penalty of £245,000 on Sesame for breaching Principle 9 and the relevant COB and COBS rules. Were it not for the Stage 1 settlement discount, the Authority would have imposed a financial penalty of £350,000 on Sesame.

Penalty for breach of Principle 3

86. In respect of conduct occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

Step 1: disgorgement

87. Pursuant to DEPP 6.5A.1G, at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this.
88. The Authority has not identified any financial benefit that Sesame derived directly from its breach of Principle 3. Step 1 is therefore £0.

Step 2: the seriousness of the breach

89. Pursuant to DEPP 6.5A.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.
90. The Authority considers that the revenue generated by Sesame, inclusive of its ARs, relating to designated investment business (and thus excluding revenue arising from mortgage intermediary or general and pure protection insurance intermediary advice) is indicative of the harm or potential harm caused by its breach. The Authority has therefore determined a figure based on a percentage of Sesame's relevant revenue. Sesame's relevant revenue is the revenue (in the form of commissions from product providers and fees from clients) derived by Sesame (inclusive of its ARs) from designated investment business during the period of the breach. The period of Sesame's breach was from 5 July 2010 to 21 September 2012. The Authority considers Sesame's relevant revenue for this period to be £82,660,067.
91. In deciding on the percentage of the relevant revenue that forms the basis of the step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:
- Level 1 – 0%
 - Level 2 – 5%
 - Level 3 – 10%
 - Level 4 – 15%
 - Level 5 – 20%
92. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly.
93. The Authority considers the following factors to be relevant to the seriousness of Sesame's breach:

Impact of the breach

94. While there was a risk of unsuitable sales to all retail investors as a result of Sesame's systems and controls weaknesses, Group Risk's findings identified a significant proportion of unsuitable sales relating to pension switching cases. From a sample review of 55 files regarding personal pension plans, contracted-in personal pension plans and SIPPs, Group Risk found that 12 of those customers (22%) received unsuitable advice and noted that these all concerned customers advised to switch from one pension product to another. Sesame has accordingly agreed to conduct a risk-based past business review to identify and provide redress to those customers who suffered loss as a result of receiving unsuitable advice to switch their pension savings from one pension product to another between 5 July 2010 and 21 September 2012.

Nature of the breach

95. The weaknesses in Sesame's systems and controls arising from the breach were widespread across most control functions and thus had a significant combined effect.

Whether the breach was deliberate and/or reckless

96. The Authority has not found that Sesame acted deliberately or recklessly.

97. Taking all of those factors into account, the Authority considers the seriousness of the breach to be level 3 and so the Step 2 figure is 10% of £82,660,067.

98. The figure at Step 2 is therefore £8,266,006.

Step 3: mitigating and aggravating factors

99. Pursuant to DEPP 6.5A.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.

100. The Authority considers that the following factors aggravate the breach:

- a. Sesame was told previously by the Authority on several occasions of its concerns with many of the controls found to be deficient by Group Risk and Group Internal Audit in September 2012;

- b. Sesame has already been subject to disciplinary action by the Authority in 2007 for complaints handling as detailed above; and
- c. the Authority had emphasised repeatedly, including through Enforcement action and in other publications, the importance of principals taking responsibility for the quality of ARs' advice and to that end the importance of appropriate MI, file-checking and record-keeping.

101. The Authority considers that the following factors mitigate the breach:

- a. Sesame made some improvements to its systems and controls in accordance with the recommendations made by the Skilled Person in 2009 and 2010.
- b. Following the completion of the Group Risk and Group Internal Reports in September 2012, Sesame has responded with a significant business change programme to improve its systems and controls, including a number of new appointments to its executive team and Board. Sesame has committed to spending approximately £20 million on this business change programme.
- c. Sesame has also co-operated fully with the Authority during the investigation of the breach.

102. Having taken these aggravating and mitigating factors into account the Authority considers that these factors balance each other out and therefore that the Step 2 figure should not be altered.

103. The figure at Step 3 remains £8,266,006.

Step 4: adjustment for deterrence

104. Pursuant to DEPP 6.5A.4G, if the Authority considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.

105. The Authority considers that the Step 3 figure of £8,266,006 represents a sufficient deterrent to Sesame and others, and so has not increased the penalty at Step 4.

106. The figure at Step 4 remains £8,266,006.

Step 5: settlement discount

107. Pursuant to DEPP 6.5A.5G, if the Authority and the firm on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the firm reached agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

108. The Authority and Sesame reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure.

109. The figure at Step 5 is therefore £5,786,200.

CONCLUSION

110. The Authority has therefore imposes a combined total financial penalty of £6,031,200 on Sesame for breaching Principle 9 and the relevant COB and COBS rules between 26 July 2005 and 30 June 2009 and for breaching Principle 3 between 5 July 2010 and 21 September 2012.

PROCEDURAL MATTERS

Decision maker

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

112. This Final Notice is given under, and in accordance with, section 390 of the Act.

Manner of and time for Payment

113. The financial penalty must be paid in full by Sesame to the Authority by no later than 19 June 2013, 14 days from the date of the Final Notice.

If the financial penalty is not paid

114. If all or any of the financial penalty is outstanding on 19 June 2013, the Authority may recover the outstanding amount as a debt owed by Sesame and due to the Authority.

Publicity

115. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

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

Authority contacts

117. For more information concerning this matter generally, contact Anna Couzens at the Enforcement and Financial Crime Division of the Authority (direct line: 020 7066 1452 / fax: 020 7066 1453).

Georgina Philippou

Financial Conduct Authority, Enforcement and Financial Crime Division

Annex 1

RELEVANT STATUTORY PROVISIONS, REGULATORY REQUIREMENTS AND AUTHORITY GUIDANCE

Statutory Provisions

The Authority's statutory objectives, set out in sections 1B to 1E of the Act, are to secure an appropriate degree of consumer protection, to protect and enhance the integrity of the UK financial system and to promote effective competition in the interests of consumers.

Section 206 of the Act provides:

"If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act,... it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate".

Sesame is an authorised person for the purposes of section 206 of the Act. The requirements imposed on authorised persons include those set out in the Authority's rules and made under section 138 of the Act.

Regulatory Provisions

In exercising its power to issue a financial penalty, the Authority must have regard to the relevant provisions in the Authority Handbook.

In deciding on the proposed action, the Authority has also had regard to guidance set out in the Regulatory Guides, in particular the Decision Procedure and Penalties Manual (DEPP).

The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Authority Handbook. They derive their authority from the Authority's rulemaking powers as set out in the Act and reflect the Authority's regulatory objectives. The relevant Principles are as follows:

Principle 3 provides:

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

Principle 9 provides:

"A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment."

For Sales on or after 1 November 2007

COBS 4.5.2R provides:

A firm must ensure that information:

(1) includes the name of the firm;

(2) is accurate and in particular does not emphasise any potential benefits of relevant business or a relevant investment without also giving a fair and prominent indication of any relevant risks;

(3) is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received; and

(4) does not disguise, diminish or obscure important items, statements or warnings.

COBS 4.5.4G provides:

In deciding whether, and how, to communicate information to a particular target audience, a firm should take into account the nature of the product or business, the risks involved, the client's commitment, the likely information needs of the average recipient, and the role of the information in the sales process.

COBS 4.5.5G provides:

When communicating information, a firm should consider whether omission of any relevant fact will result in information being insufficient, unclear, unfair or misleading.

COBS 9.2.1R provides:

(1) A firm must take reasonable steps to ensure that a personal recommendation, or a decision to trade, is suitable for its client.

(2) When making the personal recommendation or managing his investments, the firm must obtain the necessary information regarding the client's:

(a) knowledge and experience in the investment field relevant to the specific type of designated investment or service;

(b) financial situation; and

(c) investment objectives;

so as to enable the firm to make the recommendation, or take the decision, which is suitable for him.

COBS 9.2.2R provides:

(1) A firm must obtain from the client such information as is necessary for the firm to understand the essential facts about him and have a reasonable basis for believing, giving due consideration to the nature and extent of the service provided, that the specific transaction to be recommended, or entered into in the course of managing:

(a) meets his investment objectives;

(b) is such that he is able financially to bear any related investment risks consistent with his investment objectives; and

(c) is such that he has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his portfolio.

(2) The information regarding the investment objectives of a client must include, where relevant, information on the length of time for which he wishes to hold the investment, his preferences regarding risk taking, his risk profile, and the purposes of the investment.

(3) The information regarding the financial situation of a client must include, where relevant, information on the source and extent of his regular income, his

assets, including liquid assets, investments and real property, and his regular financial commitments.

COBS 9.2.3R provides:

The information regarding a client's knowledge and experience in the investment field includes, to the extent appropriate to the nature of the client, the nature and extent of the service to be provided and the type of product or transaction envisaged, including their complexity and the risks involved, information on:

(1) the types of service, transaction and designated investment with which the client is familiar;

(2) the nature, volume, frequency of the client's transactions in designated investments and the period over which they have been carried out;

(3) the level of education, profession or relevant former profession of the client.

For sales prior to 1 November 2007

COB 5.3.5R provides:

(1) A firm must take reasonable steps to ensure that, if in the course of designated investment business:

(a) it makes any personal recommendation to a private customer to:

(i) buy, sell, subscribe for or underwrite a designated investment (or to exercise any right conferred by such an investment to do so);

...

the advice on investments or transaction is suitable for the client

COB 5.4.3R:

A firm must not:

(1) make a personal recommendation of a transaction...

with, to or for a private customer unless it has taken reasonable steps to ensure that the private customer understands the nature of the risks involved.

Decision Procedure and Penalties Manual (DEPP) and Enforcement ENF

Guidance on the imposition and amount of penalties is set out in Chapter 6 of DEPP. Changes to DEPP were introduced on 6 March 2010. Given that the breach of Principle 9 occurred prior that date and the breach of Principle 3 occurred after that date, the Authority has had regard to the provisions of DEPP in force prior to 6 March 2010 in respect of the breach of Principle 9 and the provisions of DEPP in force from 6 March 2010 in respect of the breach of Principle 3.

Guidance on the imposition and amount of penalties for misconduct that occurred prior to 28 August 2007 is set out in ENF. We have accordingly had regard to the ENF provisions on penalty policy that were in force at the time of the earlier misconduct as well as to those in Chapter 6 of DEPP.

Enforcement Guide (EG)

The Authority's approach to taking disciplinary action is set out in Chapter 2 of EG. The Authority's approach to financial penalties and public censures is set out in Chapter 7 of EG.

EG 7.1 states that the effective and proportionate use of the Authority's powers to enforce the requirements of the Act, the rules and the Statements of Principles for Approved Persons will play an important role in the Authority's pursuit of its regulatory objectives. Imposing financial penalties and public censures shows that the Authority is upholding regulatory standards and helps to maintain market confidence and deter financial crime. An increased public awareness of regulatory standards also contributes to the protection of consumers.

ANNEX 2: LIST OF KEYDATA PRODUCTS SOLD BY SESAME

- Secure Income Bond 1
- Secure Income Bond 2
- Secure Income Bond 3
- Secure Income Bond 4
- Secure Income Plan 1
- Secure Income Plan 2
- Secure Income Plan 3
- Secure Income Plan 4
- Secure Income Plan 5
- Secure Income Plan 6
- Secure Income Plan 7
- Secure Income Plan 8
- Secure Income Plan 9
- Secure Income Plan 10
- Secure Income Plan 11
- Secure Income Plan 12
- Secure Income Plan 14
- Defined Income Plan 1
- Defined Income Plan 2
- Defined Income Plan 3
- Defined Income Plan 4
- Defined Income Plan 5
- Defined Income Plan 6
- Defined Income Plan 7
- Defined Income Plan 8