FCA FINANCIAL CONDUCT AUTHORITY

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FINAL NOTICE

To:	**Bluefin Insurance Services Limited**
Firm Reference Number:	**307899**
Address:	**1 Tower Place West, Tower Place, London EC3R 5BU**
Date:	**5 December 2017**

1. ACTION

1.1. For the reasons given in this notice, the Authority hereby imposes on Bluefin Insurance Services Limited ("Bluefin") a financial penalty of £4,023,800.

1.2. Bluefin agreed to settle at an early stage of the Authority's investigation. Bluefin 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 £5,748,200.

2. SUMMARY OF REASONS

2.1. Bluefin is a large insurance broker operating from over 40 offices across the UK. During the period 9 March 2011 to 31 December 2014 (the "relevant period") it was wholly owned by the insurer AXA UK Plc ("AXA") but held itself out to be "*truly independent*" in the advice it provided and the insurers it recommended to customers. During the relevant period, Bluefin implemented higher-risk business strategies to seek to achieve "*synergies*" with its shareholder ahead of treating customers fairly. This included a policy of introducing all Commercial Combined SME renewals to its parent company, before showing them to other prospective

insurers. Bluefin did not disclose these strategies and policies to its customers, and led customers to believe they were dealing with "*truly independent*" brokers conducting an unbiased search of the appropriate market. This fell short of communicating the information which customers needed about Bluefin's independence in a way that was clear, fair and not misleading, in breach of Principle 7 (communication with customers) of the Authority's Principles for Business ("the Principles").

2.2. Confidence that insurance brokers will always act in the best interests of their customers and provide them with sufficient information to allow customers to make informed decisions, is central to the relationship of trust between the industry and its customers. This is particularly important where the insurance broker is party to information to which the customer does not have access, for example details of the full range of quotes obtained, awareness of the range of insurers available to provide cover, or claims experience. This asymmetry of information is open to exploitation when firms do not adhere to the standards expected of them under the regulatory system.

2.3. During the relevant period, Bluefin implemented higher risk business strategies that:

(1) focused on increasing the volume of business placed with its sole shareholder between 2011 and 2013; and

(2) favoured the placement of particular types of business with a list of pre-selected products known as "preferred facilities".

2.4. Bluefin's conduct fell below the standards expected by the Authority. In particular, the following failings were identified.

(1) Through formal and informal communications, particularly in 2011, senior management promoted a culture that focused on compliance with Bluefin's business strategies, rather than responding to customers' individual demands and needs and ensuring that customers were in a position to make fully informed decisions.

(2) A review conducted in 2012 identified that Bluefin's brokers may have felt under pressure to make recommendations, and provide a level of information to customers, that complied with its business strategies, thereby restricting their ability to provide truly independent advice to

customers.

(3) Bluefin relied on a high-level conflicts of interest policy to manage the conduct risks associated with its business model (being wholly owned by an insurer) and its higher risk business strategies.

(4) Bluefin failed to ensure effective systems and controls were in place to monitor and manage the risks created by its higher risk business strategies, for example:

   (a) requiring brokers to record on customer files their rationales for recommending a particular insurer and then once this was done, ensuring that they did so consistently; and

   (b) collecting meaningful management information.

(5) Risks highlighted by Bluefin's second line of defence (the Compliance Department) in 2012, including indications that brokers' independence was being restricted, were not appropriately addressed.

2.5. These failures by Bluefin to ensure that it organised and controlled its affairs responsibly and effectively, with adequate risk management systems, breached Principle 3 (management and control) of the Principles.

2.6. Bluefin's focus on increasing the volume of business placed with its sole shareholder ended at the end of 2013. Additionally Bluefin took a number of steps, towards the end of 2013 and throughout 2014, to resolve the residual failures.

2.7. Accordingly, the Authority hereby imposes on Bluefin a financial penalty of £4,023,800. The Authority has taken into account the fact that Bluefin had notice of some of the Authority's concerns at various times during the relevant period.

2.8. This action supports the Authority's operational objectives of securing an appropriate degree of protection for consumers and ensuring the integrity of the UK financial system, which includes the insurance market.

2.9. For the sake of clarity, this notice makes no criticism of any person, including any body corporate, other than Bluefin. In particular, no criticism is made of AXA or any member of the AXA Group other than Bluefin. The Authority acknowledges

Bluefin's co-operation with the Authority throughout this investigation. Bluefin was sold by AXA on 31 December 2016, after the relevant period ended, and is no longer owned by an insurance company.

3. DEFINITIONS

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

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

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

"AXA" means AXA UK Plc.

"AXA Group" means the group of entities owned by AXA UK Plc.

"Bluefin" means Bluefin Insurance Services Limited.

"Commercial Combined" or "Commercial Combined Insurance" means an insurance policy bringing together a range of the covers most commonly required by businesses, in a single policy.

"Compliance Reviewers" means members of Bluefin's compliance department (the second line of defence) who conducted reviews of customer files / transactions.

"EBITDA" means earnings before interest, tax, depreciation and amortisation.

"Gross written premium" or "GWP" means insurance premiums collected by an insurer before the effect of associated costs such as broker commission and work transfer fees.

"Inherent Conflict" means the continuing conflict of interests that exists when an insurance broker is wholly owned by an insurer, whose products are among those recommended by that broker.

"insurance broker" means a person or company who advises on and arranges insurance with and insurer, on behalf of a client

"insurer" means a company that receives a premium in return for providing insurance cover.

"MI" or "Management Information" means information prepared or collated within Bluefin and presented to the management of Bluefin.

"Principles" means the Authority's Principles for Businesses.

"relevant period" means 9 March 2011 to 31 December 2014.

"SME" means small / medium sized enterprise.

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

4. FACTS AND MATTERS

Background

4.1. Bluefin is a large insurance broker with over 40 offices across the UK. Its main line of business is servicing commercial small / medium sized enterprises ("SME") and its annual turnover exceeded £100m each year from 2011 to 2014. During the relevant period, Bluefin was wholly owned by the insurer AXA and was part of the AXA Group. Bluefin was sold by AXA on 31 December 2016, after the relevant period ended, and is no longer owned by an insurance company.

Business model and strategy

4.2. Insurers derive their profit from the premiums they charge for providing insurance cover / products. Insurance brokers derive their profits from a combination of: (i) commissions received from insurers for selling their products (generally a percentage of the premium paid by the customer); and (ii) fees paid by customers (and / or insurers) for services provided by the broker such as advice on products available and searching the market for suitable products.

4.3. During the relevant period, Bluefin held itself out to be *"truly independent"* in the advice it provided and the insurers it recommended to customers. It acted as an agent for its customers. It ascertained from each customer what the customer's demands and needs were, then conducted a search of the market (limited or full) and recommended a policy, bearing in mind the best interests of the customer.

4.4. When an insurance broker is owned by an insurer, whose products are among those the broker recommends, there is an inherent risk of a conflict arising between the business interests of the broker (and the demands placed on it by its shareholder) and the best interests of the customer (the "Inherent Conflict"). As

Bluefin is no longer owned by an insurance company it is no longer subject to the Inherent Conflict.

4.5. All regulated firms are required to take reasonable care to organise and control their affairs responsibly and effectively with adequate risk management systems. During the relevant period, Bluefin's ownership structure and the business strategies it implemented (described in paragraphs 4.6 to 4.12, below) resulted in Bluefin having a higher risk business model, which required an enhanced level of oversight and controls to ensure that the Inherent Conflict was managed effectively and fairly, so that Bluefin's independence was not compromised.

Firm targets

4.6. In 2011, 2012 and 2013 Bluefin agreed "synergy targets" with AXA. These targets were annual targets for the amount of GWP that AXA Insurance would like to underwrite with Bluefin in each year: £57 million, £72 million and £83 million, respectively.

4.7. Between March 2011 and December 2013 Bluefin also agreed with AXA an "aspirational target" of generating £25 million EBITDA and placing 25% of all of Bluefin's business with AXA Group, subject to treating customers fairly. Within Bluefin, this was referred to as the "25/25 target". It was widely communicated to all staff, was included in the objectives for the members of the Executive Committee, determined the level of financial support AXA was prepared to provide to Bluefin, and was regularly monitored and discussed by senior management. The achievement of the 25/25 target necessarily contributed to the achievement of the synergy targets.

4.8. Bluefin never achieved the 25/25 target before it was replaced at the end of 2013. Bluefin did exceed its synergy targets in 2011 and 2012 but not in 2013. The amount of GWP that AXA Insurance underwrote with Bluefin in 2011 was £65.5 million (which exceeded the 2011 target by £8.5 million); in 2012 was £82.8 million (which exceeded the 2012 target by £10.8 million); and in 2013 was £81.3 million (which missed the 2013 target by £1.7 million).

Preferred facilities and placement strategy

4.9. Bluefin negotiated and maintained 12 facilities, historically referred to as "preferred facilities", the standard wordings of which were negotiated between

Bluefin and a selection of insurers. One of the two preferred facilities providing cover to SMEs for a combination of commercial risks was provided by AXA. The two SME commercial combined preferred facilities generated the highest GWP for Bluefin.

4.10. From August 2011 until December 2014, Bluefin's head office circulated to its branches lists which identified customers whose policies were coming up for renewal and were eligible for transfer to a preferred facility. Bluefin's placement strategy required brokers to recommend preferred facilities where possible. Brokers were advised that compliance with this strategy would be closely monitored and brokers who failed to comply with it were required to justify their recommendations. Bluefin did not provide sufficient information on its preferred facilities to branch staff of instances where the pricing, features and benefits within its preferred facilities would be particularly beneficial for certain types of clients and where these preferred facilities would be less beneficial for other clients, for example when the client was looking for more basic cover and was instead very price focused. Despite Bluefin having two preferred facilities for Commercial Combined Insurance, AXA was most frequently identified as the "target" insurer.

4.11. In August 2011, brokers were issued with new standing instructions for the placement of all SME business. These instructions required that all SME Commercial Combined existing business highlighted on the renewal lists must be offered to AXA and noted that an additional preferred facility with another insurer would be launched in October 2011. Brokers were not required to place this business with AXA, but were reminded that AXA offered an excellent rate of commission that would improve Bluefin's general income position in what was a difficult time for the insurance industry.

4.12. Bluefin's customers understood they were dealing with a "*truly independent*" insurance broker. Although Bluefin's website and terms of business agreements referred to the fact that it was owned by AXA, Bluefin did not disclose these placement preferences to its customers.

Pre-transactional systems and controls

4.13. The Authority considers that any insurance broker, before placing any insurance products on behalf of its customers, should have:

(1) in place a comprehensive written conflicts of interest policy;

(2) trained staff on how to manage conflicts of interest fairly; and

(3) in place an adequate review system and monitoring controls.

4.14. Bluefin's conflicts of interest policy, which was communicated to all staff upon joining or following a revision, identified the existence of the Inherent Conflict and alerted staff to the risks posed by it.

(1) The policy in place until November 2012 was too high level to be effective and did not ensure that Bluefin maintained its independence. It focused on methods for monitoring whether or not conflicts had crystallised, rather than providing practical guidance to broking staff on how to identify and manage the Inherent Conflict as it applied to their day-to-day work.

(2) In December 2012, Bluefin revised its conflicts of interest policy to include more practical guidance for employees. However, file reviews conducted by the Authority in 2013 demonstrated that the revised policy had not been implemented properly because brokers were not carrying out their broking activities in line with the revised policy.

4.15. A conflicts of interest policy need not list every situation that could generate a conflict, but it should provide practical guidance for employees as to the typical situations that are likely to arise, how they should be managed to ensure fair treatment, and how a record can be kept to demonstrate compliance. When a firm identifies that the policies and procedures it has designed to ensure customers are treated fairly are not being followed, or have not been properly embedded, the Authority expects the firm to take prompt action to address the root cause and to ensure customers are treated fairly.

4.16. Bluefin also maintained a Conflicts of Interest Register. AXA's ownership of Bluefin was recorded as the second item, dated 2 December 2011. The sole "*action to manage conflict*" recorded against this item stated "*report dated November 11 provided to the FCA [sic] on how [conflicts of interest] are managed*". The November 2011 report referenced in the Conflicts of Interest Register set out steps that Bluefin had taken to manage the Inherent Conflict. Those steps did not sufficiently mitigate the risks associated with the Inherent Conflict.

4.17. Bluefin provided basic training to employees on identifying and managing a variety of conflicts it had identified as posing a risk to its business. This training consisted of reading the conflicts of interest policy and passing a generic e-learning module. The conflicts of interest e-learning was high level, had not been tailored to Bluefin's business model and strategy, and did not provide brokers with procedures to follow in the event that the Inherent Conflict was present in a broking transaction. Instead, Bluefin relied on brokers being trained to place business appropriately in accordance with the customer's demands and needs. Accordingly, brokers were not trained and tested on how to identify and manage the Inherent Conflict as it applied to their day-to-day work. Consequently, the Inherent Conflict was not always effectively managed.

4.18. AXA's ownership of Bluefin presented a continuing conflict of interest which, in the Authority's view, required greater management compared to an individual conflict which arises, and then ends on completion of a transaction. Identification of the Inherent Conflict only at a high level within Bluefin's policies and training programme was inadequate. A conflict of this significant nature must also be identified and monitored at a transactional level, to ensure that risks are effectively managed.

Point-of-sale systems and controls

4.19. In addition to having a conflicts of interest policy, the Authority expects firms to maintain records of how a conflict has been identified and managed so that they can demonstrate that they have complied with their obligation to manage conflicts fairly. The Authority considers that properly maintained records should include: (i) the basic details of the transaction; (ii) the commercial rationale including why it was considered to be in the best interests of the customer; and (iii) the decision-making process. Transactional records should also include any specific analysis of potential conflicts of interest that was carried out by the decision makers on the transaction (or those who supervised them) concerning the nature of the conflict and its management, how significant the risks associated with the conflict were thought to be, and the key mitigating factors.

4.20. Throughout the relevant period, Bluefin's customer files and other transactional records did not include the conflicts of interest information and did not always include the commercial rationale for the transaction, as described in paragraph 4.19 above. Whilst Bluefin did have a transaction checklist for brokers, its completion was not mandatory and the checklist did not prompt specific

consideration of the Inherent Conflict. The Authority's reviews of customer files reveal significant inconsistencies in the quality of customer files. Despite Bluefin's conflicts of interest policy recommending that brokers record on the customer files the reasons for their recommendation, brokers often failed to do so. These weaknesses were highlighted to Bluefin by the Authority on a number of occasions and Bluefin took inadequate action to address them. Consequently, the second and third lines of defence (described at paragraphs 4.23 - 4.30 below) were not receiving the necessary information from the first line of defence (described at paragraphs 4.23 and 4.25 below) to assess whether or not the Inherent Conflict had been appropriately managed, Bluefin was maintaining its independence and that customers were being dealt with on a fair and transparent basis.

4.21. The Authority reviewed one corporate customer file where the customer had specifically requested the "best value" policy available. In this instance, the Bluefin broker secured a significant discount from the initial AXA quote by seeking alternative quotes from other insurers and seeking a matching price from AXA. On the day the current insurance policy was due to expire, the Bluefin broker received a "verbal indication" from the Business Development Manager at a non-AXA Group insurer which was £45,000 cheaper than the revised AXA Group insurer renewal quote. Although the non-AXA Group insurer offered to provide a contract certain quote, the Bluefin broker advised that this would not be necessary. When interviewed by the Authority the Bluefin broker's recollection was that he did not ask the non-AXA Group insurer to provide a contract certain quote in light of the time that this would take to finalise and the need to put the insurance in place that day. The non-AXA Group insurer's contemporaneous note did not reflect this. The customer then followed the broker's recommendation to purchase the AXA Group policy. This customer's file did not include a comprehensive, coherent record of the broker's rationale for recommending the AXA Group policy, why a contract certain quote was not requested from the non-AXA Group insurer or any explanation as to why the customer was not advised of the non-AXA Group insurer's "verbal indication". In the Authority's opinion, a contemporaneous review of this file by Bluefin's first line of defence could not reasonably have concluded that the Inherent Conflict had been managed appropriately, and the second and third lines of defence also could not have assessed the management of the Inherent Conflict as being appropriate.

Commissions and other financial incentives

4.22. The bulk of Bluefin's profits derived from insurer-paid commissions. These commissions took many forms and were widely known to brokers. In fact, the preferential commission on offer with preferred facilities (the most profitable of which were underwritten by AXA (72% of business) and another insurer (28% of business)) was clearly identified in the lists Bluefin circulated to its branches. Further, Bluefin underscored the circulation of the lists by emphasising these facts in its staff communications. Bluefin's senior management (several of whom were eligible for individual bonuses linked to volumes of business placed with AXA, subject to there being no detriment to clients), actively encouraged brokers to place with preferred facilities (particularly those underwritten by AXA), rather than searching the market for the best value or most suitable cover for each individual customer. Through a series of formal and informal communications, Bluefin's senior management promoted a culture that focused on compliance with the firm's business strategies, rather than responding to customers' individual demands and needs and ensuring that customers were in a position to make fully informed decisions.

4.23. Bluefin operated a 'three lines of defence' model of risk management. This model requires firms to identify, assess, manage and monitor risks at three different levels, to provide a robust system of detection and resolution. Bluefin's first line of defence was carried out by regional branches; the second line of defence by Bluefin's compliance department; and the third line of defence was carried out by the internal audit function of its parent company, AXA.

4.24. Bluefin's second line of defence identified specific instances where brokers may have felt constrained in the recommendations they were permitted to make and under pressure to prioritise compliance with Bluefin's placement strategy over treating customers fairly. For example:

(1) Broker A recommended a customer transfer to a non-AXA preferred facility. The broker did not consider the transfer was ideal but carried an opportunity for significantly higher commission. Bluefin's Compliance Reviewer recorded that: *"Trading staff themselves appeared not comfortable with this transfer and felt under pressur* [sic] *to do it (handler on other cases has resisted)";* and

(2) Compliance Reviewer A noted that he felt staff were confused and may even have felt pressured by the mixed messages given to them in relation to placement strategy. The Reviewer noted *"The results of our survey and anecdotal evidence do suggest that decisions on individual cases are made often as a result of this pressure and unfortunately sometimes to the detriment of the client".* Compliance Reviewer A warned senior management that *"Initially* [the strategy] *was launched with a positive message from senior management but at branch level… it has to be recognised that the increased* [2012 branch] *objectives create an 'incentive' to move and perhaps for some branches at the expense of TCF".*

Post-transaction monitoring and controls

4.25. Branch managers were responsible for the first line of defence, which relied on monthly file reviews (on a sampled basis). The summary results of these reviews, in terms of the number of passes / fails within the files reviewed, were collated and provided to the Bluefin compliance department and branch managers. Bluefin conducted its file reviews in accordance with a checklist which was not designed to establish whether or not the Inherent Conflict had been identified, managed and mitigated in relation to any policies that had been placed with AXA. In fact, questions around placement rationale, and if there was evidence on the file to support the placement decision, were not added to the checklist until early 2014. Although Bluefin required branch-level employees to undertake these file reviews it did not take sufficient steps to establish and maintain an effective first line of defence during the relevant period. Bluefin's first line of defence staff were not sufficiently proactive in identifying and addressing issues, such as poor client documentation or sales practices. Until early 2014, the quality assurance was not risk based and all advisers were subject to the same level of checks with no greater consideration being given to poorer or higher performers.

4.26. The second line of defence was performed by Bluefin's compliance department and took the form of a 'quality control function'. Members of the compliance department:

(1) visited branches and carried out reviews of the first line of defence file checks;

(2) reviewed policies that had transferred to a new insurer to assess whether

there had been any customer detriment as a result of the transfer; and

(3) conducted business reviews on a thematic basis.

4.27. Bluefin's second line of defence identified risks and issues at a transactional level and was broadly effective in identifying and reporting issues. However, these issues and risks do not appear in every case to have been considered or acted on by Bluefin senior management (see paragraph 4.29 and 4.34 below).

4.28. Bluefin's second line of defence conducted a review in 2012 which considered customers who had been identified for transfer to Bluefin's Commercial Combined preferred facilities (72% of which were underwritten by AXA). The compliance review identified cases where the weaknesses in Bluefin's systems and controls had put customers at risk of suffering detriment. For example:

(1) Broker B arranged AXA cover for a customer in a wholesale capacity which achieved a marginal saving of £90 but provided materially inferior cover. The Compliance Reviewer's notes record that *"the client was not given a chance to consider the options".* When challenged, Bluefin accepted that *"it does not appear that the differences in cover were pointed out to* [the customer]".

(2) Broker C requested a quote from only AXA, who had been identified by Bluefin as the *"target insurer".* The customer took matters into his own hands and obtained a quote from an alternative insurer for almost half of the AXA quote. Broker C subsequently obtained a matched quote from AXA. Had the customer not obtained his own quotes (despite having engaged an independent broker) he would have paid almost double for his insurance.

4.29. During the same compliance review, the second line of defence identified instances of brokers feeling under pressure to comply with branch placement targets and Bluefin's placement strategy, sometimes at the expense of treating customers fairly (see paragraph 4.24 (2) above). These findings were not reported to Bluefin's board. The final version of the report prepared for the 2012 compliance review did not mention these concerns.

4.30. The third line of defence was performed by the internal audit function of Bluefin's parent company. Bluefin did not ensure that the audit work was sufficiently

focused on Bluefin or that Bluefin's own risk appetite was applied to the audit work undertaken. As a result of the adoption of their parent company's risk appetite and insufficient internal audit visits being carried out, given the geographical spread of Bluefin's offices, there was inadequate management oversight of the effectiveness of the control environment and undue reliance placed on the second line of defence. The Authority raised these concerns with Bluefin in 2013 and Bluefin took steps to address them.

Management oversight

4.31. The Management Information produced by the first line of defence did not include the detail necessary for the second line of defence to assess whether or not the Inherent Conflict had been identified as potentially relevant on a particular transaction or, if it had been identified, that it had been appropriately and effectively managed.

4.32. In addition to reports from the first line of defence, the second line of defence received data on the amount of premium placed with each of Bluefin's main insurers. The Bluefin Risk Committee monitored and considered this data on an on-going basis. The percentage of business placed with AXA was monitored by Compliance as a specific key risk indicator, with an aspirational target set at an arbitrary percentage of GWP, and moreover one which some of the management of Bluefin acknowledged was unlikely ever to be achieved. This MI prepared by Bluefin did not usually provide visibility on individual policies. Senior management were therefore unable to assess adequately the effectiveness of the systems and controls which could have been used to manage the Inherent Conflict, for example, broker records of rationales for their recommendations.

4.33. Bluefin's total GWP declined by approximately 8% during the relevant period. The percentage of GWP placed by Bluefin with AXA increased from 11.91% (in 2010) to 16.19% (in 2012) of total Bluefin placed GWP. This increase followed the implementation of Bluefin's higher risk business strategies. Subsequently the percentage of GWP placed by Bluefin with AXA decreased by 2014 to 14.6% of total Bluefin placed GWP, but still remained higher than the percentage achieved in 2010.

4.34. During the relevant period, the report prepared for the 2012 compliance review was escalated to and discussed by the board but the monitoring and management of the Inherent Conflict does not appear to have been subject to scrutiny or

challenge by the board. Bluefin's senior management failed to consider the risks associated with profit-driven business practices and were slow to react to feedback provided by the Authority.

Culture

4.35. Bluefin's culture encouraged brokers to make recommendations that would support Bluefin's higher-risk business strategies in priority to considering the demands and needs of individual customers, who were seeking advice from an independent insurance broker. Specifically, Bluefin's 2011 communications to its brokers regarding its higher risk business strategies and its preferred facilities did not provide sufficient information on the advantages and disadvantages of its preferred facilities (as discussed in paragraph 4.10). For example, Bluefin:

(1) discouraged its brokers from *"trawl*[ing] *the whole market"* and encouraged its brokers to rely on Bluefin's list of pre-selected *"preferred facility"* insurers;

(2) actively discouraged brokers from using quotes from "*preferred facilities*" to drive down the cost of quotes from the local market and described this as "*plain daft*", notwithstanding it would have resulted in more competitive pricing for Bluefin's customers;

(3) consistently reminded its brokers that the firm had committed to delivering certain volumes of business to AXA and that Bluefin senior management monitored quotations and sales conversion rates for AXA policies; and

(4) singled out and praised branches that had secured significant volumes of business with AXA in Bluefin's all-staff communications.

5. FAILINGS

5.1. The regulatory provisions relevant to this Final Notice are referred to in Annex A.

5.2. Based on the facts and matters described above, the Authority considers that Bluefin breached Principle 3 and 7.

5.3. Bluefin breached Principle 3 by failing to organise its affairs responsibly and effectively with adequate risk management systems and controls. The Inherent Conflict applied to every transaction in which an AXA Group product was among those products that a broker could recommend. Accordingly, it required constant monitoring and control, both at an organisational level and at a transactional

level, to ensure that Bluefin maintained its independence and that customers were being dealt with on a fair and transparent basis. The systems and controls in place at Bluefin were inadequate to achieve this.

5.4. Bluefin's senior management were aware of the Inherent Conflict (it had been specifically identified in Bluefin's various Conflict of Interest policies in place from 2010) and had identified action that could be taken to manage the risk that brokers would make recommendations that were not in the best interests of customers. Whilst, during the relevant period, senior management communicated to employees the existence of and risks associated with the Inherent Conflict and encouraged them to treat customers fairly and record their placing rationale on the customers' files, they did not equip Bluefin's broking staff with tools to identify the Inherent Conflict during the broking process, nor did they take sufficient steps to provide guidance on how to manage the Inherent Conflict if and when it arose. Concurrently, senior management fostered a culture of favouring particular insurers (including AXA) over others, which compromised the independence of Bluefin and its brokers.

5.5. The combination of these failings in its systems and controls led to an increased risk that Bluefin brokers' recommendations would be based on:

(1) discouraged its brokers from "trawl[ing] the whole market" and encouraged its brokers to rely on Bluefin's list of pre-selected "preferred facility" insurers;

(2) obtaining the highest possible commission, rather than meeting the individual demands and needs of its customers

5.6. Further, Bluefin breached Principle 7 because it held itself out as being "*truly independent*" when in fact it was wholly owned by AXA. Bluefin did not disclose its higher-risk business strategies, which it implemented to seek to achieve *"synergies"* with its shareholder ahead of treating customers fairly to its customers, and led customers to believe they were dealing with *"truly independent"* brokers conducting an unbiased search of the appropriate market. This fell short of communicating the information which customers needed about Bluefin's independence in a way that was clear, fair and not misleading.

5.7. Having regard to the issues above, the Authority considers it is appropriate and proportionate in all the circumstances to take disciplinary action against Bluefin for its breaches of the Principles during the relevant period.

6. SANCTION

6.1. The Authority has considered the disciplinary and other options available to it and has concluded that a financial penalty is the appropriate sanction in the circumstances of this particular case.

6.2. The Authority's policy on the imposition of financial penalties is set out in Chapter 6 of DEPP. In determining the proposed financial penalty, the Authority has had regard to this guidance.

6.3. The Authority's policy came into force on 6 March 2010. Bluefin's failings occurred after 6 March 2010 therefore, the Authority has determined the appropriate financial penalty under its current penalty policy.

6.4. DEPP 6.5A sets out a five step framework to determine the appropriate level of financial penalty.

Step 1: disgorgement

6.5. Pursuant to DEPP 6.5A.1G, at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this.

6.6. The Authority has not identified any financial benefit that Bluefin derived directly from its breach. Step 1 is therefore £0.

Step 2: the seriousness of the breach

6.7. Pursuant to DEPP 6.5A.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.

6.8. The Authority considers that in this case revenue is indicative of the harm or potential harm caused by the failings. The Authority considers Bluefin's relevant revenue for this period to be £52,257,208.

6.9. In deciding the percentage of the 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 failings; the more

serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:

Level 1 – 0%

Level 2 – 5%

Level 3 – 10%

Level 4 – 15%

Level 5 – 20%

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

a) the breach revealed systemic weaknesses in the firm's management of the Inherent Conflict and a failure by senior management to grapple with the issue over a period of 3 years 9 months;

b) the breach was aggravated by higher-risk strategies adopted by senior management, including the introduction of the standing instructions to brokers to place business with Bluefin's parent, and the failure by senior management to act on audit findings of its second line of defence; and

c) the breach caused a significant risk of loss to customers who may have been advised to take out unsuitable insurance policies with Bluefin's parent. Examples include transactions identified as potentially detrimental in the course of Bluefin's internal file review in 2012 and the transaction in 2013 (as discussed in paragraph 4.21).

6.11. DEPP 6.5A.2G (12) lists factors likely to be considered 'level 1, 2 or 3 factors'. Of these, the Authority considers that there is no evidence to show that the breach was deliberate or reckless.

6.12. Taking these factors into account, the Authority considers the seriousness of the breaches to be Level 3.

6.13. Step 2 is therefore 10% of £52,257,208 which equals £5,225,721.

Step 3: mitigating and aggravating factors

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

6.15. The Authority considers that the breach is aggravated by the fact that Bluefin had previous notice of some of the Authority's concerns.

6.16. Having taken these factors into account, the Authority has concluded that the Step 2 figure should be increased by 10%.

6.17. Step 3 is therefore £5,225,721 plus 10% which equals £5,748,293.

Step 4: adjustment for deterrence

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

6.19. The Authority considers the Step 3 figure of £5,748,293 a sufficient deterrent to Bluefin and others and has not increased the penalty at Step 4.

Step 5: settlement discount

6.20. Pursuant to DEPP 6.5A.5G, if the Authority and the firm on whom a penalty is to be imposed agree to the amount of the financial penalty and other terms, DEPP 6.7G provides that the amount of the financial penalty, which might otherwise have been payable, will be reduced to reflect the stage at which the Authority and the firm reached agreement.

6.21. The Authority and Bluefin reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure resulting in a reduction to £4,023,800.

Financial penalty

6.22. The Authority therefore imposes on Bluefin a total financial penalty of £4,023,800.

7. PROCEDURAL MATTERS

Decision maker

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

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

Manner of and time for Payment

7.3. The financial penalty must be paid in full by Bluefin to the Authority by no later than 20 December 2017, 14 days from the date of the Final Notice.

If the financial penalty is not paid

7.4. If all or any of the financial penalty is outstanding on 21 December 2017, the Authority may recover the outstanding amount as a debt owed by Bluefin and due to the Authority.

Publicity

7.5. 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.

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

Authority contacts

7.7. For more information concerning this matter generally, contact Richard Topham (direct line: 020 7066 1180) of the Enforcement and Market Oversight Division of the Authority.

Anthony Monaghan

Head of Department
Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX A

RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. RELEVANT STATUTORY PROVISIONS

1.1. The Authority's operational objectives are set out in section 1B(3) of the Act and include the objectives of securing an appropriate degree of protection for consumers; protecting and enhancing the integrity of the UK financial system; and promoting effective competition in the interests of customers.

1.2. Section 206(1) of the Act provides:

"If the [Authority] *considers than an authorised person has contravened a relevant requirement imposed on the person, it may impose on him a penalty in respect of that contravention, of such amount as it considers appropriate."*

2. RELEVANT REGULATORY PROVISIONS

Principles for business

2.1. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Authority's Handbook. They derive their authority from the Authority's rule-making powers set out in the Act.

2.2. Principle 3 (management and control) states that:

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

2.3. Principle 7 (communications with clients) provides that:

"A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading."

Decision Procedure and Penalties Manual ("DEPP")

2.4. Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's statements of policy with respect to the imposition and amount of

financial penalties under the Act.

Enforcement Guide

2.5. The Enforcement Guide sets out the Authority's approach to exercising its main enforcement powers under the Act.

2.6. Chapter 7 of the Enforcement Guide sets out the Authority's approach to exercising its power to impose a financial penalty.