FINAL NOTICE

To:	**Andrew Lawton**	To:	**Cheshire Mortgage Corporation Limited**
Individual FSA Ref:	**AGL01035**	Firm FSA Ref:	**305253**
Address:	**Lake View Lakeside Cheadle SK8 3GW**		
Date:	**6 December 2012**		

ACTION

1. For the reasons given in this notice, the FSA hereby:

   i. imposes on Andrew Lawton ("Mr Lawton") a financial penalty of £13,500;

   ii. withdraws the approval granted to Mr Lawton to perform controlled function CF11 (Money laundering reporting) at Cheshire Mortgage Corporation Limited ("CMCL"); and

   iii. makes an order prohibiting Mr Lawton from performing any significant influence function in relation to any regulated activities carried on by any authorised or

exempt persons, or exempt professional firm. This order takes effect from 6 December 2012.

2. Following the submission of written representations to the FSA on 17 October 2012, Mr Lawton agreed to settle. Mr Lawton therefore qualified for a 10% (stage 3) discount under the FSA's executive settlement procedures. Were it not for this discount, the FSA would have imposed a financial penalty of £15,000 on Mr Lawton.

SUMMARY OF REASONS

3. Mr Lawton was the Compliance Director at the authorised firm CMCL; he was responsible for the compliance function at CMCL and the group of which it is a part ("the Group"). Mr Lawton also holds the controlled function of Money laundering reporting (CF11) at CMCL, which approval he has held since 31 October 2004.

4. CMCL is a small mortgage lender that operates in niche market sectors, previously including lending to the impaired credit market. CMCL is the only regulated entity in the Group.

5. The FSA considers that between 31 October 2004 and 31 December 2009 ("the Relevant Period") Mr Lawton was knowingly concerned in CMCL's breaches of Principles 3, 6 and 7. Although Mr Lawton's approval only extended to CF11 (Money laundering reporting) his responsibilities as the Compliance Director were such that the FSA considers that because of the failings outlined in this notice, he was knowingly concerned in various regulatory breaches by CMCL. Furthermore the FSA considers that in the Relevant Period Mr Lawton failed to demonstrate competence and capability in his role as the Compliance Director of CMCL.

6. Mr Lawton was knowingly concerned in CMCL's breach of Principle 3 because he failed to obtain and review adequate Management Information to enable CMCL to identify and deal with areas of concern within its underwriting and arrears management processes to ensure the fair treatment of customers in all cases.

7. The FSA considers that Mr Lawton was knowingly concerned in CMCL's breach of Principle 6 because:

i. CMCL's arrears charges were not compliant with the MCOB rule which stated that arrears charges had to be a reasonable estimate of the "administration cost" to CMCL. Mr Lawton was aware of this rule but he did not appreciate that it required a formal calculation of the costs (rather than a benchmarking exercise) and did not take reasonable steps to ensure that CMCL complied with the rule; and

ii. Mr Lawton neither recognised nor addressed the potential risks to customers arising from the remuneration structure at CMCL, whereby Collections staff were incentivised to collect payments from customers in arrears (albeit the bonus could be and was reduced for non-compliance issues).

8. Mr Lawton was also knowingly concerned in CMCL's breach of Principle 7 because he:

   i. knew that between 2004 to 2009 customers in arrears were not always provided with regular statements of account in a prescribed format and he failed to address this issue; and

   ii. failed to ensure that a particular director was first approved by the FSA as a CF1 before performing that role – as a result, the individual in question carried out the CF1 function without prior FSA approval for in excess of one year. That director was subsequently approved.

9. The FSA also considers that Mr Lawton was knowingly concerned in the breach by CMCL of section 59(1) of the Act for a period in excess of a year. It was Mr Lawton's responsibility to ensure that persons requiring the FSA's advance approval under Part V of the Act obtained that approval. However he failed to do this in relation to an individual at the firm notwithstanding that he knew that this individual was appointed a director of CMCL.

10. In the Relevant Period Mr Lawton failed to demonstrate competence and capability in his role as the Compliance Director of CMCL because:

    i. he did not perform adequate and timely checks on CMCL's underwriting decisions;

ii. he did not always ensure that issues of general application and concern raised by officers in the Compliance Department in relation to underwriting were discussed with the appropriate persons (including the Board) and rectified;

iii. he did not recognise the potential risks arising out of the limited and occasional involvement of the CEO and another director in the underwriting approval process of regulated loan applications and did not provide sufficient challenge to that involvement;

iv. he did not perform (or ensure the performance of) the compliance oversight of the Collections Department between the start of the Relevant Period and 2007;

v. he did not ensure that all the issues raised with arrears handling as part of the May 2009 review conducted by the Compliance Department were either rectified efficiently or, in all cases, adequately;

vi. he did not ensure that his department was adequately resourced at all times throughout the Relevant Period;

vii. he did not ensure that the Compliance Department was sufficiently robust; and

viii. did not take steps to maintain compliance oversight of responses to complaints.

11. In the light of the foregoing the FSA considers that it is appropriate to propose the imposition of the sanctions set out at paragraph 1.

12. CMCL commenced positive and wide-ranging changes to organisational, governance and compliance arrangements in 2008, in order to achieve high regulatory standards and to ensure that customers are treated fairly. Mr Lawton has made a significant contribution to those improvements, as confirmed and documented by the Skilled Person in its Follow-Up Review and an internal audit report of the Compliance Department, both of which took place in 2011.

13. Mr Lawton accepts the FSA's findings and has agreed to step down from his current role and not to carry out any function related to compliance oversight, whether or not a controlled function, in relation to any regulated activities carried on by any authorised or exempt persons, or exempt professional firm.

DEFINITIONS

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

"Board" means the board of directors of CMCL;

"CEO" means Chief Executive Officer;

"CMCL" means Cheshire Mortgage Corporation Limited;

"Collections Department" means the arrears handling department of CMCL;

"Collections Director" means the employee responsible for arrears handling at CMCL and the Group during the Relevant Period and holding that title;

"Compliance Department" means the department responsible for compliance at CMCL and the Group;

"Compliance Director" means the employee who was responsible for compliance at CMCL and the Group during the Relevant Period and holding that title;

"COO" means Chief Operating Officer;

"FSA" means the Financial Services Authority;

"Group" means the Group of companies of which CMCL is part;

"Management Information" means information that is collected within the firm and used by senior management to identify areas of concern and to support decision making;

"MCOB" means the Mortgages and Home Finance: Conduct of Business sourcebook (as in force at the relevant time);

"M-Day" means the day that MCOB came into force, 31 October 2004;

"Monarch Recoveries" means the Group's in-house debt recovery company;

"Principles" means the FSA's Principles for Businesses;

"Relevant Period" means the period between 31 October 2004 to 31 December 2009;

"Skilled Person" means the firm responsible for preparing the Skilled Persons Report;

"Skilled Persons Report" means the report prepared pursuant to the requirement under section 166 of the Act into the regulated mortgage lending and arrears management practices at CMCL, dated 8 June 2010;

"Skilled Person Follow-up Review" means the follow-up review to the section 166 report into the regulated mortgage lending and arrears management practices at CMCL, dated 9 September 2011, and voluntarily undertaken by CMCL;

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

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

"Underwriting Department" means the department that is responsible for underwriting at CMCL;

"Underwriting Director" means the director responsible for underwriting at CMCL and the Group; and

"Underwriting Guidelines" means the Underwriting and Processing Guidelines, which incorporate the Responsible Lending Policy.

FACTS AND MATTERS

CMCL Business and Management

15. CMCL was authorised by the FSA on 31 October 2004 to conduct regulated mortgage business. During the Relevant Period, CMCL entered into approximately 3,200 FSA regulated mortgage contracts with a total amount of approximately £226 million.

16. During the Relevant Period, the Board of CMCL consisted of seven members, five of whom hold the controlled function of CF1 (Director) and the remaining two were non-executives. The Chief Executive Officer ("CEO") (holding the controlled functions of CF3 (Chief Executive) and CF1 (Director)) also held the approval for CF8 (Apportionment and oversight) between 31 October 2004 and 31 March 2009.

Role and Reporting Lines

17. Mr Lawton has worked at CMCL since 2002. From that date he was the Compliance Director of the Group including CMCL until a new Compliance and Risk Director was appointed in March 2011. He has also held the controlled function of Money laundering reporting (CF11) since 31 October 2004 and has been responsible for insurance mediation from 14 January 2005.

18. Mr Lawton reported to the Board of CMCL until mid-2008 when a new Chief Operating Officer ("COO") was appointed, to whom he then reported. Although Mr Lawton was not a member of the Board, he was a formal invitee to all Board meetings although he did not always attend. Nevertheless, for every Board meeting from mid-2006 he provided a brief compliance plan to the Board, which gave a high level review of areas at which the Compliance Department was looking.

19. Until August 2008, the Board supervised CMCL's activities through a 'matrix' management structure. The operation of the matrix structure involved Board members and Mr Lawton providing input from their respective areas of expertise to different CMCL departments. This meant that, while the Board had a collective responsibility for CMCL, there were limited formal lines of responsibility. As the Compliance Director, Mr Lawton had a share of collective management responsibility for CMCL.

20. Mr Lawton considered that he was not always sufficiently challenged about aspects of his work. Although informal meetings took place, Mr Lawton did not have a formal appraisal until October 2008.

Remit, Structure and Robustness of the Compliance Department

21. Mr Lawton has explained that CMCL's business accounted for about 10% of the Group's activities. Mr Lawton was apportioned responsibility for ensuring that all of the Group's activities complied with the relevant policies/procedures and with the relevant standards and requirements of the regulatory system, including for CMCL. However, Mr Lawton has stated that in his role as Compliance Director he did not provide any compliance oversight of the CMCL arrears handling department (known as the Collections Department) until 2007, in part because at M-Day, CMCL did not have a significant mortgage book or any arrears.

22. For the majority of the Relevant Period, Mr Lawton had two compliance officers to support him in his role as Compliance Director (although there were changes in the persons within the department due to the usual processes of recruitment and resignation). These officers were responsible for:

    i. submitting Product Sales Data ("PSD"), answering queries from underwriters and completing the quarterly file checks on underwriting decisions to verify compliance with the Underwriting Guidelines (the latter only from October 2006); and

    ii. the arrears handling side of the business (from April 2007 onwards). This included completing a compliance monitoring review of arrears handling in May 2009, which was the first time since M-Day that the Compliance Department instigated a compliance monitoring review of arrears handling.

23. Further staff joined the compliance team at the time of the reorganisation in 2008 when the new COO joined.

24. Mr Lawton could not recall any specific examples of where he challenged any of the Board directors during the Relevant Period in relation to a regulated mortgage contract.

Compliance Framework at CMCL

25. An internal audit of the Compliance Department was undertaken in November 2009 and the report was issued in December 2009. The primary scope of the audit was to evaluate and test controls relating to whether there was an effective legal and regulatory framework at CMCL. The audit report stated that:

    i. "*Group Compliance could not evidence a formal planning process (either strategic or operational), documented profiles for regulatory, insurance and fraud related risks, clear or integrated goals and objectives, or performance / process measures, in operation across the function*;" and

    ii. "*it is our opinion that systems, procedures and controls currently operating with regards to Group Compliance management are incomplete / ineffective for the aspects examined during this review*."

26. The audit report also stated that:

"The Group Compliance Director [Mr Lawton] …recognise[s] the significance of the 'gaps' identified and…[has]…agreed to develop an action plan to address all material issues urgently during the first half of 2010."

27. Mr Lawton recalls that the report was "poor" and that the Group needed to plan better and establish a new compliance framework.

Compliance Procedures

28. There was no compliance manual at CMCL until 2010. There were, however, procedures and guidelines in place at CMCL within its various departments that were drafted with the help of a member of the Compliance Department. These included the Complaints Procedure, the AML Procedures, the Underwriting Guidelines and the Responsible Lending Policy (the last of which were first drafted at the start of November 2004 and were amended each year in conjunction with the Underwriting Director). Although the Underwriting Director was responsible for ensuring that the underwriting team was kept informed of any updates, Mr Lawton did not have a process in place to oversee and ensure that this was done (even though there is no evidence to suggest that these updates were not being communicated).

Underwriting File Checks

29. From October 2006, a member of the Compliance Department completed quarterly checks on underwriting files as follows.

    i. A review would be done of a sample of between 5-10% of loans funded in a quarter;

    ii. A template checklist would be used to check each file reviewed;

    iii. The file would be graded as either A1 (case meets underwriting criteria), A2 (cases meets underwriting criteria – minor compliance weaknesses), B (case slightly outside underwriting criteria and/or significant compliance weaknesses) or C (case falls outside underwriting criteria and/or significant compliance

weaknesses). The criteria used to assess each grade did not change over the Relevant Period;

iv. The member of the Compliance Department would then draft a report, which Mr Lawton would review before sending it to the Underwriting Director;

v. Mr Lawton, the member of the Compliance Department and the Underwriting Director would discuss the report and propose areas for improvement; and

vi. The Compliance Department would, during subsequent reviews, consider if the proposed improvements had taken place. However, no formal analysis was done by the Compliance Department of the file review reports to see whether there were any systemic issues arising.

30. These file checks were carried out post-sale, i.e. the loan would have already been funded and received by the customer. Mr Lawton was responsible for deciding to review the file post-sale and stated that he did not consider the risks arising out of conducting a post-sale review as opposed to a pre-sales review. Mr Lawton would only occasionally look in detail at a complete underwriting file himself.

31. The Compliance Department's quarterly checks referred to above started in October 2006. However, they did not take place for the second and third quarters of 2008 or for the third quarter of 2009.

32. There are instances of the member of the Compliance Department raising issues in the quarterly review reports, for example:

i. amounts given by customers in relation to expenditure, which the member of the Compliance Department thought were sometimes implausible, and in response to which the member of the Compliance Department recommended that minimum amounts of expenditure should be recorded by underwriters in assessing a customer's declared income and expenditure; and

ii. the quality of self-certified applicants' supporting material.

33. Mr Lawton did not, however, put in place a formal procedure for ensuring that the issues that were raised in the quarterly reports on the underwriting file checks were

either always acted on or were always discussed at Board level. One member of the Compliance Department said that sometimes the recommendations following the reports would result in changes to practices (for example, the minimum amounts for expenditure) and sometimes not (for example, the use of bank statements to verify outgoings instead of just being used for ID or income verification).

34. Mr Lawton said that it was his decision whether or not a quarterly report would be presented to the Board and confirmed that they would only occasionally be presented to the Board.

35. Whilst the vast majority of files reviewed were graded either as A1, ("case meets underwriting criteria") or A2 ("case meets underwriting criteria – minor compliance weaknesses"), the reviews did raise some potentially more substantive issues (such as assessment of affordability, including the plausibility of evidence relating to customer declared income and the sufficiency of documentation from self-certified customers). Despite these issues arising on certain files they were still graded A1. Mr Lawton did not always highlight the concerns to the Board or ensure that action was taken to address them.

36. The Skilled Persons Report into the regulated mortgage lending and arrears management practices at CMCL, found that in 26 of the 75 reviewed cases (35%) handled since January 2008, there was no evidence recorded on the customer's file of a change in a customer's circumstances which had led to that customer falling into arrears. CMCL was not always able to demonstrate that it had taken sufficient steps at the underwriting stage to ensure that the loan was affordable. The Skilled Person concluded that, in some cases, CMCL's failure to take sufficient steps at the underwriting stage to ensure that the loan was affordable could have been a material factor in causing a customer to fall into arrears.

Involvement of others in underwriting

37. Mr Lawton knew that throughout the Relevant Period, the CEO and Director A were on limited occasions involved in the underwriting approval process of regulated loan applications despite not being part of the Training and Competency regime of CMCL, as required by the Underwriting Guidelines. Despite the requirements to the contrary in the Underwriting Guidelines, the CEO would on a limited number of occasions refer

corporate customers of the Group's other unregulated lending companies to CMCL's Underwriting Department. However, Mr Lawton has stated that he did not consider what criteria the CEO or Director A were applying when involved in the underwriting process and, further, that there was no process to measure the outcomes of cases where they were involved.

38. Mr Lawton also stated that it would not always be possible to see from a file whether the CEO and/or Director A had been involved in an underwriting decision as there was no formal means by which their involvement was documented. In any event, Mr Lawton informed the FSA during interview that he did not have any concerns at the time about the involvement of those individuals in the underwriting process as he thought that ultimately it was the Underwriting Director's responsibility.

39. Furthermore, in one case it was noted in the quarterly review that the CEO was involved in the underwriting process and the standard requirement for an affordability assessment was waived as the CEO knew the customer personally and had prior knowledge of the customer's creditworthiness gained as a result of prior transactions with other Group companies. Although the file was noted as being "Ungraded" in the body of the quarterly review, in the executive summary on the front page the file has been graded as A1 (the highest grade), despite the fact that the CEO's involvement was in breach of the Underwriting Guidelines. Mr Lawton has confirmed that he saw all of the quarterly reviews and therefore was (or ought to have been) aware of this grading.

Arrears Handling

From 2004 to 2007

40. Throughout the period 2004 to 2007, Mr Lawton considered that the Collections Director (who was a senior manager at the same level as Mr Lawton and not a Board member) was responsible for arrears handling, fees and charges and compliance with MCOB, as well as the practical implementation of arrears handling (which was carried out by the Group's in-house debt recovery company, called Monarch Recoveries). This was notwithstanding that Mr Lawton had been apportioned responsibility for compliance in respect of the entirety of CMCL.

41. As set out in paragraph 21 above, Mr Lawton did not provide any compliance oversight to the arrears handling department (i.e. the Collections Department) until 2007 following the recruitment of additional compliance resource. This was because from M-Day the Compliance Department had always focussed on the "front end" and lending, which Mr Lawton stated was partly because of resourcing and "other priorities". He stated that he also did not ask anyone to provide him with further resource during that period.

42. Mr Lawton accepts that the absence of compliance oversight in respect of arrears handling contributed to failures (such as not always ensuring that reasonable efforts were made to reach agreement with the customer over methods of repayment).

From 2007 to 2010

43. CMCL was aware that there were significant issues with its arrears handling from an internal audit report dated March 2008, which concluded that, as a consequence of significant issues relating to the application of arrears fees and charges, "arrangements for controls" in this area were "unsatisfactory". CMCL recognising that its increasing size warranted a more sophisticated and co-ordinated approach to its operations, had begun a search for a COO approximately two years prior to his arrival in June 2008. Thereafter, in October 2008 CMCL instigated a Collections Change Programme including a gap analysis of its procedures relating to arrears, MCOB requirements and treating customers fairly, and in May 2009 undertook a Compliance Monitoring Review of arrears handling. Although changes were made to practices as a result of these initiatives and an FSA visit in September 2009, the Skilled Persons Report still found that in 62 of the 75 reviewed cases handled since January 2008 (namely prior to the changes outlined above), there was at least one instance of material weakness occurring at some point in the handling of arrears that resulted in the customer not being treated fairly at some point in the process.

44. Mr Lawton acknowledged that, from 2007 into 2008 when the Compliance Department started to have oversight of arrears handling, a huge cultural shift was needed in terms of staffing, competency, remuneration, and strategy of the Collections Department as well as the need to change the manual IT processing systems. He accepted, however,

that it did not happen "overnight" and that this was the reason for deficiencies in arrears handling being referred to in the Skilled Persons Report.

Arrears staff culture and remuneration

45. Mr Lawton knew from 2004 to August 2008 that the culture of the Collections Department had been to focus on the quick recovery of arrears. He also knew during that time that there were financial and other incentives offered to the staff to motivate staff to focus on collecting cash from customers in arrears (albeit that these were adjusted for compliance failings). However, he neither considered the risks arising out of these aspects of the remuneration structure nor whether such behaviour was consistent with the regulatory requirement to treat customers fairly. He therefore took no steps to escalate the matter.

Arrears Charges

46. CMCL failed to carry out any formal calculation to justify the level of their arrears charges or analyse the actual administration cost of the additional administration required as a result of a customer being in arrears. Instead, CMCL benchmarked its tariff to those of other high street mortgage lenders and impaired credit lenders. In April 2008, Mr Lawton (with the involvement of other members of the management team) carried out an exercise to review arrears charges; however, the new charges were set by reference to market charges as evidenced by the personal mortgage statements of certain members of CMCL staff/management.

47. Between 2004 and 2008, Mr Lawton knew that there was an MCOB rule that stated that arrears charges had to be a reasonable estimate of the cost of administration. However, he did not appreciate that the rule required a formal calculation of the costs rather than a benchmarking exercise.

48. Mr Lawton said that in 2004 he was involved in a collective decision by certain members of CMCL's management team to set the charges in this way and that the first time the MCOB rule was ever considered in depth by him and other members of the management team was when the FSA published a Final Notice in respect of action it had taken against other peer group companies (i.e. at the earliest in October 2009).

49. In addition, Mr Lawton has confirmed that he reviewed the tariff of charges in place from 2008 that stated expressly that the charge required was "an administration cost of corresponding with a customer", but he did not consider at any stage whether or not this was a misrepresentation.

50. Despite being Compliance Director and having primary responsibility for ensuring compliance with regulatory requirements and MCOB and also participating in the setting of arrears charges, Mr Lawton took no steps to correct the method of setting the arrears charges used by CMCL, or to escalate this matter further.

Statements of account sent to customers in arrears

51. The Skilled Persons Report found that in 100% of cases reviewed where a customer account had gone into arrears prior to May 2009, CMCL could not evidence that it had provided the customer with the information required under MCOB13.4.1R in relation to the arrears details and advice on mortgage repayments. In addition, CMCL's arrears documentation did not set out the additional communication of matters required by MCOB 13 in repossession proceedings (for example, communicating to customers in a prescribed written format that there was a surplus or shortfall from selling the property). CMCL acknowledged this was a historic issue that was corrected in May 2009 when an automated system was introduced for producing the statements of account.

52. Mr Lawton accepted that between 2004 and May 2009 he knew that statements of account were not being sent out to customers in a prescribed format as required under the MCOB rules, but that due to resourcing issues and other priorities this issue did not get resolved. Despite being Compliance Director and having primary responsibility for ensuring compliance with regulatory requirements and MCOB, during the Relevant Period Mr Lawton did not escalate the issue and nor did he consider it necessary to report it to the FSA.

Complaints

53. Between 2004 and 2007 there were no dedicated personnel responsible for complaints at CMCL – instead, the individual business areas would deal with any complaints. From 2007, however (and following the provision of resource to focus on complaints

and which reported to Mr Lawton), Mr Lawton would periodically review complaint responses before they were sent out.

54. The Skilled Persons Report found a number of failings by CMCL in relation to communications with complainants, including failures to keep the customer informed of progress, and to use durable and individually tailored response letters.

55. The internal audit of the Compliance Department issued in December 2009 found that in relation to complaints handling "the extent of checks undertaken by Group Compliance have not been documented, complaint handler competence has not been evaluated and there is no formal training & competency process, skills matrix or input to departmental training plans."

Management Information

56. Although CMCL undertook monthly management meetings to discuss the performance of individual accounts that were in arrears, the Skilled Persons Report identified that as at 8 June 2010, there was still no formal analysis or documented connection between the front-end underwriting of loans and the subsequent arrears experience. The Skilled Persons Report also concluded that, whilst information was available, there was:

    i. no analysis of trending data or commentary in relation to informal payment plans and/or visits by field collection agents;

    ii. limited quantitative data; and

    iii. an absence of a clear link to the six Treating Customers Fairly outcomes.

57. Mr Lawton knew in 2008 (at the latest) that the Management Information that was collected at the time in respect of informal payment plans was not adequate, primarily because elements of the information were recorded manually and as such, the analysis of this information by members of the Compliance Department was incomplete. However, although Mr Lawton raised the fact that the Management Information was inadequate with senior management and plans were subsequently put into place to address this issue, the matter was not fully resolved due to prioritisation of resources (up to and including the end of the Relevant Period) and Mr Lawton took no concrete steps to address this.

Director acting without FSA approval

58. Mr Lawton accepts that he was responsible for ensuring that controlled function holders applied for and obtained FSA approval. However, he allowed one director to perform the CF1 function without the FSA's prior approval (or alternatively even seeking the FSA's prior approval) for a period of more than a year before being approved.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

59. The statutory and regulatory provisions relevant to this Final Notice are referred to in Annex A.

FAILINGS

60. The FSA considers that, on the basis of the facts and matters described above, Mr Lawton was knowingly concerned in the breach of Principle 3 that CMCL committed because he failed to ensure that sufficient Management Information was available to enable CMCL to identify and deal with areas of concern within its underwriting and arrears management processes to ensure the fair treatment of customers in all cases. As described at paragraphs 56 to 57 above, as Compliance Director Mr Lawton was knowingly concerned in this misconduct from 2008 (at the latest) until the end of the Relevant Period.

61. The FSA also considers that, on the basis of the facts and matters described above, Mr Lawton was knowingly concerned in the breaches of Principle 6 that CMCL committed by:

    i. failing to ensure that an appropriate cost-based approach to the calculation of its arrears charges was undertaken and therefore not ensuring that they were a reasonable estimate of the cost of administering an account in arrears. As described at paragraphs 46 to 50 above, Mr Lawton was knowingly concerned in this misconduct throughout the Relevant Period by participating in the setting of the arrears charges; and

    ii. failing to take reasonable steps to ensure that its Collections staff always treated customers fairly notwithstanding that they (i.e. the Collections staff) were incentivised to maximise the amount of money collected from customers in

arrears (albeit the bonus could be and was reduced for non-compliance issues). As described at paragraph 45 above, Mr Lawton, as a Compliance Director, was knowingly concerned in this misconduct from the start of the Relevant Period until mid-2008 through his awareness that the culture of the Collections Department had been to focus on the quick recovery of arrears, and by taking no steps to rectify this or escalate it appropriately.

62. The FSA also considers that, on the basis of the facts and matters described above, Mr Lawton was knowingly concerned in the breach of Principle 7 that CMCL committed by:

    i. failing to provide customers in arrears with regular statements of account in a prescribed format over a five year period, which may have created the risk of customers being unable to challenge or question the administration of their accounts. As described at paragraphs 51 to 52 above, Mr Lawton was knowingly concerned in this misconduct between 2004 and 2009 by being aware that CMCL was failing to provide customers in arrears with regular statements of account, and by failing to take sufficient action to rectify this or escalate it appropriately; and

    ii. misinforming customers in written communications about the basis of the calculation for the tariff of charges. As described at paragraphs 46 to 50 above, Mr Lawton was knowingly concerned in this misconduct throughout the Relevant Period by being aware that the tariff of charges stated that charges were 'an administration cost of corresponding with the customer' when the actual administration cost had not been considered, and by failing to take any action to rectify this or escalate it appropriately.

63. The FSA also considers that on the basis of the facts and matters described in paragraph 58 above, Mr Lawton was knowingly concerned in the breach by CMCL of section 59(1) of the Act for a period in excess of a year prior to approval being granted. Mr Lawton has accepted that it was his responsibility to ensure that persons requiring the FSA's advance approval under Part V of FSMA obtained that approval, and that he failed to do so notwithstanding that he knew at all material times that an individual was acting as a director of CMCL.

64. On the basis of the facts and matters described in paragraphs 15 to 58 above, the FSA also considers that Mr Lawton has demonstrated a lack of competence and capability in performing his role as Compliance Director of CMCL. The FSA notes in particular:

Specific failures in relation to arrears handling

i. his failure to perform (or ensure the performance of) the compliance oversight of the Collections Department between the start of the Relevant Period and 2007, as set out in paragraphs 21 and 40 to 42;

ii. his lack of understanding of the regulatory regime and its requirements as applicable to CMCL's business, including his failure to understand the MCOB rules relating to arrears fees and charges, as set out in paragraphs 46 to 52;

iii. his failure always to ensure that all issues raised with arrears handling as part of the May 2009 review conducted by the Compliance Department were either rectified efficiently or in all cases adequately, as set out in paragraphs 43 to 44;

Specific failures in relation to Underwriting

iv. his failure to perform adequate and timely checks on CMCL's underwriting decisions, as set out in paragraphs 29 to 36;

v. his failure always to ensure that issues of general application and concern raised by officers in the Compliance Department in relation to underwriting were always discussed with the appropriate persons (including the Board) and rectified, as set out in paragraphs 29 to 36;

vi. his failure always to ensure that the procedures that were in place requiring underwriting processes to be carried out by the correct people, were followed, as set out on paragraphs 37 to 39;

General failures

vii. his failure to ensure that the Compliance Department was sufficiently robust, as set out in paragraphs 18 and 24;

viii. his failure to escalate compliance issues appropriately, as set out in paragraphs 24 and 32 to 34;

ix. his failure to ensure that the Compliance Department had oversight of all aspects of CMCL's regulated activities so as to enable it to monitor and ensure compliance with the relevant regulatory standards and requirements, as set out in paragraph 21;

x. his failure to put in place an effective compliance framework at CMCL, as set out in paragraphs 25 to 28;

xi. his failure to ensure that an effective complaints handling system was in place and that CMCL always communicated with customers and complainants accurately or fully, for example by failing to keep the customer informed of progress, not individually tailoring complaint response letters and on occasions using inaccurate and misleading statements in response letters, as set out in paragraphs 53 to 55;

xii. his failure to have in place a process to oversee that internal teams were kept up to date with changes to internal guidelines, as set out in paragraph 28;

xiii. his general lack of comprehension of the FSA's expectations of his role and its remit, as set out in paragraph 21;

xiv. his failure to ensure that the Compliance Department was adequately resourced at all times throughout the Relevant Period, as set out in paragraph 41; and

xv. the matters set out in paragraphs 60 to 63 above.

65. As a consequence of Mr Lawton's knowing concern in CMCL's breaches the FSA considers that it is appropriate to impose a financial penalty upon him. The FSA also considers that because his conduct demonstrates a lack of competence and capability, it is appropriate to impose a prohibition order upon him and withdraw his approval as a CF11 (Money laundering reporting). A further analysis of these sanctions is provided below.

SANCTION

66. The FSA proposes to impose a financial penalty of £13,500 on Mr Lawton pursuant to section 66(2)(b) of the Act because of his being knowingly concerned in CMCL's breaches of Principles 3, 6 and 7 in the manner outlined above.

67. The FSA's relevant policy on the imposition of financial penalties is set out in Chapter 6 of the version of the FSA's Decision Procedure and Penalties Manual ("DEPP") in force prior to 6 March 2010, which formed part of the FSA Handbook during the Relevant Period. All references to DEPP in this section are references to that version of DEPP. On 6 March 2010, the FSA adopted a new penalty-setting regime. As Mr Lawton's misconduct began in 2004 and finished in December 2009 before the adoption of the new regime, the FSA proposes to consider this case under the regime which applied before 6 March 2010. In determining the appropriate level of financial penalty the FSA has also had regard to Chapter 7 of its Enforcement Guide.

68. The principal purpose of a financial penalty is to promote high standards of regulatory conduct by deterring approved individuals who have committed breaches from committing further breaches, helping to deter other persons from committing similar breaches and demonstrating generally the benefits of compliant behaviour (DEPP 6.1.2G). A financial penalty is a tool that the FSA may employ to help it achieve its regulatory objectives.

69. The FSA will consider the full circumstances of each case when determining whether or not to impose a financial penalty. The FSA considers that a financial penalty would be an appropriate sanction in this case, given the serious nature of the breaches, the risks created for customers of CMCL and the need to send out a strong message of deterrence to others.

70. DEPP 6.5.2G sets out, as guidance, a non-exhaustive list of factors that may be of relevance in determining the level of a financial penalty. The FSA considers that the following factors are particularly relevant in this case.

Deterrence

71. The financial penalty will deter Mr Lawton from further breaches of regulatory rules and Statements of Principle. In addition it will promote high standards of regulatory conduct by deterring other approved individuals from committing similar breaches and demonstrating generally the benefit of compliant behaviour.

The nature, seriousness and impact of the breach in question

72. In determining the appropriate sanction, the FSA has had regard to the seriousness of the breaches by Mr Lawton, including the nature of the requirements breached, the number and duration of the breaches, the length of the Relevant Period, the number of customers who may have been at potential risk of entering into long term agreements that they could not afford and poor arrears handling by CMCL and the fact that the breaches revealed serious failings in Mr Lawton's conduct.

73. The FSA considers Mr Lawton's failings to be serious because his failings persisted over a significant period of time (over 5 years) and potentially impacted a number of vulnerable customers as CMCL's operations historically included mortgage lending in the credit impaired sector where a number of customers who already had an adverse credit status were put at further risk of financial detriment.

The person on whom the penalty is to be imposed is an individual

74. The FSA has taken into account both the fact that Mr Lawton is an individual without the resources of a body corporate, and that he holds a position of responsibility for compliance oversight within CMCL.

The financial resources and other circumstances of the individual

75. There is no evidence to suggest that Mr Lawton is unable to pay the financial penalty.

Conduct following the breaches

76. In deciding upon the appropriate disciplinary sanction, the FSA has taken into account the significant contribution Mr Lawton has made to wide-ranging changes in organisational, governance and compliance arrangements in CMCL since 2008, as

confirmed and documented by the Skilled Person in its Follow-Up Review and an internal audit report of the Compliance Department, both of which took place in 2011.

77. The FSA also recognises that Mr Lawton has been open and co-operative with the FSA's investigation.

Disciplinary record and compliance

78. Mr Lawton has not been the subject of previous disciplinary action by the FSA.

Other action taken by the FSA

79. In determining the level of financial penalty, the FSA has taken into account penalties imposed by the FSA on other approved persons for similar behaviour.

80. The FSA, having regard to all the circumstances, considers the appropriate level of financial penalty to be £15,000 before any discount for early settlement.

Prohibition and withdrawal of approval

81. The FSA's effective use of its power to prohibit individuals who are not fit and proper from carrying out functions relating to regulated activities helps the FSA to work towards its regulatory objectives of protecting consumers, promoting public awareness, maintaining confidence in the financial system and reducing financial crime.

82. The FSA considers that Mr Lawton is not a fit and proper person as he lacks the competence and capability to perform any significant influence function in relation to any regulated activities carried on by any authorised or exempt persons, or exempt professional firm under section 56 of the Act. Therefore the FSA has decided to impose a prohibition order (in the terms set out at paragraph 1 above) and also the FSA has decided to withdraw Mr Lawton's approval as a CF11 (Money laundering reporting).

83. The FSA has had regard to the guidance in Chapter 9 of the FSA's Enforcement Guide ("EG") in deciding that a prohibition order and a withdrawal of Mr Lawton's approval to perform the controlled function CF11 (Money laundering reporting) pursuant to section 63 of the Act is appropriate in this case.

PROCEDURAL MATTERS

Decision maker

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

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

Manner of and time for Payment

86. The financial penalty must be paid in full by Mr Lawton to the FSA by no later than 29 March 2013.

If the financial penalty is not paid

87. If all or any of the financial penalty is outstanding on 30 March 2013, the FSA may recover the outstanding amount as a debt owed by Mr Lawton and due to the FSA.

Publicity

88. 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 FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.

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

FSA contacts

90. For more information concerning this matter generally, contact Kate Tuckley (direct line: 020 7066 7086 /email: kate.tuckley@fsa.gov.uk) of the Enforcement and Financial Crime Division of the FSA.

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Bill Sillett

Head of Department

FSA Enforcement and Financial Crime Division

Annex A

STATUTORY AND REGULATORY FRAMEWORK

Prohibition and Withdrawal of Approval – Sections 56 and 63 of the Act

1. The FSA has the power, pursuant to section 56(2) of the Act to make a prohibition order against an individual prohibiting that individual from performing a specified function, any function falling within a specified description, or any function, if under section 56(1) of the Act it appears to the FSA that the individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person.

2. Section 63(1) of the Act provides that the FSA may withdraw an approval given under section 59 of the Act if it considers that the person in respect of whom it was given is not a fit and proper person to perform the function to which the approval relates.

FSA Enforcement Guide

3. In deciding whether to make a prohibition order the FSA must have regard to the guidance contained in Chapter 9 of the Enforcement Guide ("EG").

4. EG 9.1 provides that the FSA's power under section 56 of the Act to prohibit individuals who are not fit and proper from carrying out functions in relation to regulated activities helps the FSA to work towards achieving its regulatory objectives. The FSA may exercise this power to make a prohibition order where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any function in relation to regulated activities, or to restrict the functions which he may perform.

5. EG 9.2 states that the FSA's effective use of the power under section 63 of the Act to withdraw approval from an approved person will also help to ensure high standards of regulatory conduct by preventing an approved person from continuing to perform the controlled function to which the approval relates if he is not a fit and proper person to perform that function. Where it considers this is appropriate, the FSA may prohibit an approved person, in addition to withdrawing their approval.

6. EG 9.4 sets out the general scope of the FSA's powers in respect of prohibition orders, which include the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. EG 9.5 provides that the scope of a prohibition order will depend on the range of functions that the individual performs in relation to regulated activities, the reasons why he is not fit and proper, and the severity of risk which he poses to consumers or the market generally.

7. EG 9.8 to 9.14 provide guidance on the FSA's approach to making prohibition orders against approved persons and/or withdrawing such persons' approvals.

8. EG 9.8 states that, when it has concerns about the fitness and propriety of an approved person, the FSA may consider whether it should prohibit that person from performing functions in relation to regulated activities, withdraw its approval, or both. The FSA will, in each case, consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions, for example, public censures or financial penalties, or by issuing a private warning.

9. EG 9.9 states that, when deciding whether to make a prohibition order against an approved person and/or withdraw his approval, the FSA will consider all the relevant circumstances of the case which may include, but are not limited to, the following factors (among others):

    i. whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety of an approved person are contained in FIT 2.1 (Honesty, integrity and reputation); FIT 2.2 (Competence and capability); and FIT 2.3 (Financial soundness);

    ii. whether, and to what extent the approved person has (a) failed to comply with the Statements of Principle or (b) been knowingly concerned in a contravention by the relevant firm of a requirement imposed on the firm by or under the Act (including the Principles and other rules);

    iii. the relevance and materiality of any matters indicating unfitness;

    iv. the length of time since the occurrence of any matters indicating unfitness; and

v. the severity of the risk which the individual poses to consumers and to confidence in the financial system.

10. EG 9.12 provides examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or withdraw the approval of an approved person. The examples include severe acts of dishonesty, for example, which may have resulted in financial crime, serious lack of competence, and serious breaches of the Statements of Principle.

11. EG 9.23 provides that in appropriate cases the FSA may take other action against an individual in addition to making a prohibition order and/or withdrawing its approval, including the use of its power to impose a financial penalty.

Fit and Proper Test for Approved Persons

12. The section of the FSA handbook entitled "FIT" sets out the Fit and Proper test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function. FIT is also relevant in assessing the continuing fitness and propriety of an approved person.

13. FIT 1.3.1G provides that the FSA will have regard to a number of factors when assessing a person's fitness and propriety. Among the most important considerations will be the person's honesty, integrity and reputation and competence and capability.

14. FIT 2.2.1G provides that in determining a person's competence and capability, the FSA will have regard to all relevant matters including but not limited to:

    i. whether the person satisfies the relevant FSA training and competence requirements in relation to the controlled function the person performs or is intended to perform;

    ii. whether the person has demonstrated by experience and training that the person is suitable or will be suitable if approved, to perform the controlled function; and

    iii. whether the person has adequate time to perform the controlled function and meet the responsibilities associated with that function.

Financial Penalty and Knowing Concern – Section 66 of the Act

15. The FSA has the power pursuant to Section 66(3) of the Act to impose a financial penalty on an approved person if it appears to the FSA that the person is guilty of misconduct and if the FSA is satisfied that it is appropriate in all the circumstances. Under Section 66(2) of the Act, a person is guilty of misconduct if, while an approved person, that person has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person by or under the Act.

The FSA's policy on the imposition of financial penalties

16. In considering the appropriate sanction, the FSA has had regard to its published guidance. The FSA's policy in relation to the imposition of financial penalties prior to 6 March 2010 was set out in Chapter 6 of the section of the FSA's Handbook entitled the Decision Procedure and Penalties manual ("DEPP"). Until 27 August 2007, it was set out in Chapter 13 of the Enforcement Manual (ENF), to which the FSA has had regard in this case.

17. DEPP 6.1.2G provides that the principal purpose of imposing a financial penalty is to promote high standards of regulatory and/or market conduct by deterring persons who have committed breaches from committing further breaches, helping to deter other persons from committing similar breaches, and demonstrating generally the benefits of compliant behaviour.

18. The FSA will consider the full circumstances of each case when determining whether or not to take action for a financial penalty (DEPP 6.2.1G). DEPP 6.2.1G sets out guidance on a non-exhaustive list of factors that may be of relevance in determining whether to take action for a financial penalty, which include the following:

    i. DEPP 6.2.1G(1): The nature, seriousness and impact of the suspected breach, including whether the breach was deliberate or reckless, the duration and frequency of the breach, the amount of any benefit gained or loss avoided as a result of the breach, the loss or risk of loss caused to consumers or other market users, and the nature and extent of any financial crime facilitated, occasioned or otherwise attributable to the breach;

ii. DEPP 6.2.1G(2): The conduct of the person after the breach, including how quickly, effectively and completely the person brought the breach to the attention of the FSA, and the degree of co-operation the person showed during the investigation of the breach; and

iii. DEPP 6.2.1G(5): Action taken by the FSA in previous similar cases.

19. DEPP 6.5.1G(1) provides that the FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty (if any) that is appropriate and in proportion to the breach concerned.

20. DEPP 6.5.2G sets out a non-exhaustive list of factors that may be relevant to determining the appropriate level of financial penalty to be imposed on a person under the Act. The following factors are relevant to this case:

(1) Deterrence - DEPP 6.5.2G(1)

When determining the appropriate level of penalty, the FSA will have regard to the principal purpose for which it imposes sanctions, namely to promote high standards of regulatory and/or market conduct by deterring persons who have committed breaches from committing further breaches and helping to deter other persons from committing similar breaches, as well as demonstrating generally the benefits of compliant business.

(2) The nature, seriousness and impact of the breach in question: DEPP 6.5.2G(2)

The FSA will consider the seriousness of the breach in relation to the nature of the rule, requirement or provision breached. Relevant considerations include the duration and frequency of the breach, the loss or risk of loss caused to consumers, investors or other market users and the nature and extent of any financial crime facilitated, occasioned or otherwise attributable to the breach.

(3) Whether the person on whom the penalty is to be imposed is an individual: DEPP 6.5.2G(4)

When determining the amount of a penalty to be imposed on an individual, the FSA will take into account that individuals will not always have the resources of a body corporate, that enforcement action may have a greater impact on an individual, and further, that it may be possible to achieve effective deterrence by imposing a smaller penalty on an individual than on a body corporate. The FSA will also consider whether the status, position and/or responsibilities of the individual are such as to make a breach committed by the individual more serious and whether the penalty should therefore be set at a higher level.

(4) The size, financial resources and other circumstances of the person on whom the penalty is to be imposed: DEPP 6.5.2G(5)

The FSA may take into account whether there is verifiable evidence of serious financial hardship or financial difficulties if the person were to pay the level of penalty appropriate for the particular breach. The FSA regards these factors as matters to be taken into account in determining the level of a penalty, but not to the extent that there is a direct correlation between those factors and the level of penalty. The purpose of a penalty is not to render a person insolvent or to threaten the person's solvency. Where this would be a material consideration, the FSA will consider, having regard to all other factors, whether a lower penalty would be appropriate. This is most likely to be relevant to a person with lower financial resources; but if a person reduces its solvency with the purpose of reducing its ability to pay a financial penalty, for example by transferring assets to third parties, the FSA will take account of those assets when determining the amount of a penalty.

(5) Conduct following the breach: DEPP 6.5.2G(8)

The FSA may take into account the conduct of the person in bringing (or failing to bring) quickly, effectively and completely the breach to the FSA's attention, and the degree of co-operation the person showed during the investigation of the breach by the FSA.

(6) Disciplinary record and compliance history: DEPP 5.2.G(9)

The FSA may take the previous disciplinary record and general compliance history of the person into account.

(7) Other action taken by the FSA (or a previous regulator): DEPP 6.5.2G(10)

Action that the FSA has taken in relation to similar breaches by other persons may be taken into account. As stated at DEPP 6.5.1G(2), the FSA does not operate a tariff system. However, the FSA will seek to apply a consistent approach to determining the appropriate level of penalty.

The Principles for Businesses

21. The FSA's Principles for Businesses (the "Principles"), are a general statement of the fundamental obligations of authorised firms under the regulatory system. Under section 66(3)(a) of the Act, the FSA can impose a financial penalty on an approved person if that person was knowingly concerned in a breach by an authorised person of the Principles. The relevant Principles are set out below.

Principle 3

22. Principle 3 (Management and control) of the FSA's Principles states:

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

Principle 6

23. Principle 6 (Customers' interests) of the FSA's Principles states:

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

Principle 7

24. Principle 7 (Communications with clients) of the FSA's Principles states:

"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."

Section 59(1) of the Act - Approval for particular arrangements

25. Section 59(1) of the Act provides:

"An authorised person ('A') must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by A in relation to the carrying on by A of a regulated activity, unless the Authority approves the performance by that person of the controlled function to which the arrangement relates."

26. Under section 66(3)(a) of the Act, the FSA can impose a financial penalty on an approved person if that person was knowingly concerned in a contravention by an authorised person of a requirement under the Act.

Conduct of Business

27. The Mortgages and Home Finance: Conduct of Business sourcebook ("MCOB"), which is part of the FSA Handbook, applied to authorised firms with effect from 31 October 2004, although parts of MCOB relating to home purchase plans only came into effect on 6 April 2007. Authorised firms carrying out activities in relation to regulated mortgage contracts must apply MCOB to comply with the Principles.

28. The relevant provisions of MCOB are set out below. All of the provisions of MCOB set out below apply in relation to regulated mortgage business and were applicable (either in the same or a substantially similar form) throughout the entirety of the Relevant Period.

MCOB 11

29. MCOB 11 sets out rules and guidance in relation to responsible lending. In particular, MCOB 11.3.1R sets out that:

"A firm must be able to show that before deciding to enter into or making a further advance on a regulated mortgage contract…account was taken of the customer's ability to repay." (MCOB 11.3.1R(1)); and

"A mortgage lender must make an adequate record to demonstrate that it has taken account of the customer's ability to repay for each regulated mortgage contract that it enters into…The record must be retained for a year from the date at which the regulated mortgage contract is entered into or the further advance is provided." (MCOB 11.3.1R(2))

MCOB 12

30. MCOB 12.4 sets out the rules on charges which may be levied on a customer who has fallen into arrears on a regulated mortgage contract. In particular, MCOB 12.4.1R(1) states that:

"A firm must ensure that any regulated mortgage contract that it enters into does not impose, and cannot be used to impose, a charge for arrears on a customer except where that charge is a reasonable estimate of the cost of the additional administration required as a result of the customer being in arrears."

31. MCOB 12.5.1R sets out that:

"A firm must ensure that any regulated mortgage contract…that it enters does not impose and cannot be used to impose, excessive charges upon a customer."

MCOB 13

32. MCOB 13 sets out rules and guidance relating to arrears and repossessions.

33. In particular, MCOB 13.3.1R sets out that a firm must deal fairly with any customer who is in arrears and put in place (and operate in accordance with) a written policy and procedures for ensuring that it does so.

34. MCOB 13.3.9R requires that:

"A mortgage lender or administrator must make and retain an adequate record of its dealings with a customer whose account is in arrears or who has a sale shortfall, which will enable the firm to show its compliance with this chapter…"

35. MCOB 13.4.1R sets out that a firm must, within 15 business days of becoming aware that a customer has fallen into arrears on a regulated mortgage contract, provide the following in a durable medium:

    i. the current Money Advice Service information sheet "Problems paying your mortgage";

    ii. a list of the due payments either missed or only paid in part;

    iii. the total sum of the payment shortfall;

    iv. the charges incurred as a result of the payment shortfall;

    v. the total outstanding debt, excluding charges that may be added on redemption; and

    vi. an indication of the nature (and where possible the level) of charges that the customer is likely to incur unless the payment shortfall is cleared.

36. MCOB 13.5.1R requires that:

    "Where an account is in arrears, and the payment shortfall or sale shortfall is attracting charges, a firm must provide the customer with a regular written statement (at least once a quarter) of the payments due, the actual payment shortfall, the charges incurred and the debt."