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## FINAL NOTICE

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To: **AXA Sun Life Plc**

Of: 107 Cheapside  
London  
EC2V 6DU

Date: **21 December 2004**

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about a requirement to pay a financial penalty:**

### **1. THE PENALTY**

- 1.1. The FSA gave AXA Sun Life Plc (“AXA/the Firm”) a Decision Notice on 17 December 2004 which notified AXA that for the reasons set out below, the FSA had decided to impose a financial penalty on AXA in the sum of £500,000 pursuant to section 206 of the Financial Services and Markets Act 2000 (“the Act”). The penalty has been imposed, in respect of breaches of FSA Rules SYSC 3.2.6 R, COB 3.8.4(1) R, COB 3.8.8 R(1), SUP 15.3.11 R, and Principles 3, and 7 of the FSA Principles for Business (“the FSA Principles”).

### **2. THE FIRM**

- 2.1. AXA is regulated by the FSA. Life and pension products from the Firm are sold through a number of distribution channels including AXA Sun Life Direct Limited a wholly owned subsidiary of AXA Sun Life Holdings Plc and an appointed representative of the Firm.

### **3. REASONS FOR THE PENALTY**

#### **Summary**

- 3.1. The FSA is imposing a financial penalty on AXA in respect of breaches by one of its appointed representatives, AXA Sun Life Direct Limited, and by one of its divisions, AXA Sun Life Direct (“ASLD”), of FSA Rules and Principles in relation to:
- (1) AXA’s failure to establish and maintain effective systems and controls to enable it to comply with the applicable requirements and standards set out in Chapter 3 of the FSA’s Conduct of Business Sourcebook (“COB 3”);
  - (2) AXA’s failure to take reasonable steps to ensure that non real-time financial promotions were clear, fair and not misleading; and

- FSA (3) AXA's failure to notify the FSA in a timely way of a significant breach of Rules.

3.2. AXA's breaches are viewed as serious because of the following:

- (1) the promotions<sup>1</sup> were widely circulated over a considerable period of time to a very large number of retail customers, thereby putting a significant number of consumers at risk;
- (2) the Firm failed to take sufficient action to change the wording of a financial promotion following previous communications with the FSA;
- (3) inaccurate comparative data was used from January 2002 to April 2003 in a number of financial promotions; and
- (4) the Firm failed to promptly inform the FSA about the inaccurate comparative data.

3.3. The failings identified in this case are serious and merit a significant penalty. In fixing the amount of such a penalty the FSA recognises that the impact of the failings, both actual and potential, has been mitigated to some extent by the following:

- (1) following a request from the FSA's Financial Promotions Monitoring Team ("FPMT") on 27 January 2004 that AXA withdraw all general advertising and direct offer packs for two products, AXA withdrew the whole promotional campaign for both products;
- (2) the Firm voluntarily appointed Ernst & Young ("E&Y") to report on its systems and controls relating to financial promotions;
- (3) the Firm has been proactive in sending remedial letters, agreed with the FSA, to all customers affected by the inaccurate comparative data. These letters also add clarity to the product's features; and
- (4) the Firm has been open and co-operative with the FSA during its investigation.

3.4. As a result, the Firm has received considerable credit for these actions and without this degree of co-operation the penalty proposed would have been significantly higher.

#### **4. RELEVANT STATUTORY PROVISIONS, RULES AND GUIDANCE**

4.1. Section 206 of the Act provides that:

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

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<sup>1</sup> Financial promotions, including general advertising, direct offer promotions and television advertisements approved and issued by the Firm during 2003 have been considered by the FSA. These promotions are viewed as being representative of the types of promotion issued during the period under investigation.

## **Systems and Controls Rules**

- 4.2. FSA Rule SYSC 3.2.6 R provides that:

*“A firm must take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system”.*

## **Conduct of Business Rules – Financial Promotions**

- 4.3. FSA Rule COB 3.8.4 R(1) provides that:

*“A firm must be able to show that it has taken reasonable steps to ensure that a non-real time financial promotion is clear, fair and not misleading”.*

- 4.4. Evidential provision COB 3.8.5 E<sup>2</sup> provides further detail as to how firms can comply with the clear, fair and not misleading rule in COB 3.8.4 R(1) including that:

*“ A firm should take reasonable steps to ensure that, for a non-real time financial promotion.....*

- (b) any statement of fact, promise or prediction is clear, fair and not misleading and discloses any relevant assumptions;*
- (d) the facts on which any comparison or contrast is made are verified or, alternatively, that relevant assumptions are disclosed and that the comparison or contrast is presented in a fair and balanced way, which is not misleading and includes all factors which are relevant to the comparison or contrast”.*

- 4.5. FSA Rule COB 3.8.8 R (1) (c) provides that:

*“ A specific non-real time financial promotion must include a fair and adequate description of ... the risks involved.”*

- 4.6. FSA Rule SUP 15.3.11 R provides that:

*“(1) A firm must notify the FSA of:*

- (a) a significant breach of rules (which includes a Principle) or Statement of Principle....*
- (2) A firm must make the notification in (1) immediately it becomes aware, or has information which reasonably suggests that any of the matters in (1) have occurred, may have occurred or may occur in the foreseeable future.*

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<sup>2</sup> Contravention of an evidential provision does not give rise to any of the consequences provided for by other provisions of the Act. However, contravention of an evidential provision may be relied on as tending to establish contravention of such other rule as may be specified; or compliance with an evidential provision may be relied on as tending to establish compliance with such other rule as may be specified (or both).

4.7. The Principles are a general statement of the fundamental obligations of firms under the regulatory system. They derive their authority from the FSA's rule-making powers as set out in the Act and reflect the FSA's regulatory objectives.

4.8. FSA Principle 3 provides that:

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

4.9. FSA Principle 7 provides that:

*"A firm must communicate with its clients<sup>3</sup> in a way that is clear, fair and not misleading".*

## **5. BACKGROUND**

### **AXA**

5.1. AXA's ultimate parent, AXA S.A., is one of the world's largest insurance and asset management companies and is incorporated in France. AXA S.A is not regulated by the FSA. AXA UK plc is a wholly owned subsidiary of AXA S.A and is the holding company for most of the AXA group's insurance operations in the UK and Ireland. AXA Sun Life Holdings plc is a holding company and is not regulated by the FSA. However, it has a number of regulated subsidiaries, the largest of which is the Firm.

5.2. AXA became an authorised person within the meaning of the Act on 1 December 2001 and is therefore subject to the requirements imposed on it by or under the Act and to the FSA's Rules and Principles, as set out in the FSA Handbook. AXA was previously authorised by the Personal Investment Authority from 1997.

### **The products and promotions**

5.3. A number of defective financial promotions were issued by AXA and distributed by its group companies and appointed representatives as part of a long-standing multi-media campaign for two of AXA's products: the Bonus Cash Builder Plan ("the BCP"); and the Guaranteed Over 50 Plan ("GO50").

### ***The Bonus Cash Builder Plus Plan***

5.4. The BCP is a with-profits low start endowment assurance policy with a minimum initial premium of £10 per month and a maximum initial premium of £100 per month. The product runs for a maximum 15 year term with premiums increasing by 20% per annum for the first five years. The product provides a guaranteed cash sum on maturity and life cover throughout the investment period, provided that premiums continue to be paid.

5.5. The amount of the guaranteed cash sum payable on maturity is dependent on the customer's age, level of premium and continuity of payments. The guaranteed cash sum could be less than the total value of premiums paid into the policy. Early

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<sup>3</sup> The definition of clients given in the glossary to the FSA Handbook includes potential clients.

encashment may mean that the customer would receive significantly less than the value of the premiums paid in to the BCP and as such the product does not provide full capital security.

- 5.6. The direct offers and general advertising for the BCP included a bar graph depicting a fifteen year comparison of the performance of the BCP with that of a notional typical building society account. From the start of 2002 until April 2003 the data used within the comparison was incorrect. Whilst the promotions stated that “all building society income is reinvested net”, ASLD had failed to account for the effect of compound interest in their calculations, thereby understating the performance of the building society account.
- 5.7. In December 2003 the Firm commissioned a report from its internal audit department (“Internal Audit”) to review how the error had arisen. The Firm has made a copy of Internal Audit's findings available to the FSA. The report's overall opinion was that the control environment operating around the production of financial data for inclusion in promotions for the BCP was inadequate. The findings are described in more detail below at section 7.
- 5.8. The Firm has voluntarily written to all BCP customers who purchased BCP policies between 2002 and April 2003. The letters provide the corrected comparative information. Customers are invited to contact the Firm if they have any questions or concerns regarding their policy in light of the correct information. Customers who wish to cancel their policy will be offered a refund of contributions paid, less any cash already received back as part of the policy, plus interest.

#### ***The Guaranteed Over 50s Plan***

- 5.9. The GO50 is a without profits whole of life policy which provides a guaranteed cash sum on the death of the policy holder. The guaranteed cash sum is determined by the level of premium, sex and age of the policyholder when they take out the policy. No bonuses are added to the GO50 and therefore over time inflation will have the effect of eroding the value of the guaranteed cash sum. Depending on how long the customer lives after taking out the policy, the total amount of premiums paid into the policy may exceed the guaranteed cash sum. If the policy is cancelled the customer may get back significantly less than the value of the premiums paid into the policy and if it is cashed in during the early years the customer will not get back any premiums. In addition, cover under the policy automatically ceases on cancellation of the policy.

#### ***The promotions***

- 5.10. The promotions issued by the Firm for the BCP and GO50 all fell into three main categories:
  - (1) direct offer promotions issued by AXA and its appointed representatives;

- (2) general advertising<sup>4</sup> in a variety of newspapers and magazines; and
- (3) television advertisements.

### **Overview of AXA's advertising approval procedures**

- 5.11. The procedures governing the preparation, approval and issue of financial promotions by AXA and ASLD at the relevant times were set out in an advertising approval guide used, primarily, by advertising officers and as part of the ASLD campaign manager training.
- 5.12. The Firm also had training programmes in place for staff involved in the preparation of financial promotions.
- 5.13. The Compliance Advertising Team ("the Team") within the Business Risk Division of AXA approves financial promotions produced by, inter alia, AXA's appointed representatives and AXA's marketing department. The Team's objectives include ensuring that all financial promotions comply with the FSA's Rules and that the promotions are clear, fair and not misleading.
- 5.14. ASLD are responsible for checking the technical and factual accuracy of financial promotions and must provide evidence that the relevant areas of AXA have approved each item before the financial promotions were sent out to the Team for their approval.
- 5.15. The failures in the systems and controls that AXA had in place are described below in section 7.

### **Discovery of current Issues**

- 5.16. Between February 2002 and January 2004 the FPMT frequently corresponded with the Firm regarding the content of a number of financial promotions, including promotions for the BCP and GO50.
- 5.17. On 1 December 2003 the FPMT requested copies of all current marketing material for the BCP and GO50 as a result of concerns that the promotions may have been deficient. Following a review of the Firm's response to this request the FPMT wrote to the Firm on 27 January 2004 requesting that it withdraw general advertising and direct offer packs for the BCP and GO50.
- 5.18. On receipt of the FPMT's request of 27 January 2004 the Firm withdrew the whole promotional campaign for both of the products. The Firm also voluntarily appointed Ernst & Young ("E&Y") to report on and to redesign the Firm's advertising approval procedures. E&Y have produced a report which the Firm has made available to the FSA. The report's findings are detailed in section 7 and describe a number of failures in the systems and controls relating to financial promotions.

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<sup>4</sup> Customers who responded to a general advertisement would be sent a direct offer pack as the next step in the sales process

- 5.19. Whilst the findings in this case merit a significant financial penalty, the FSA considers that they have been mitigated by the co-operation demonstrated by the Firm both before and during the FSA's investigation, by the remedial action taken to address those concerns and the cost of doing so.

## **6. REGULATORY HISTORY**

### **FSA's general approach**

- 6.1. The FSA made financial promotion a priority issue in both the 2002/3 and 2003/4 FSA Plan and Budgets. The FSA has made clear that one of its key priorities is the enhancement of minimum standards for information given by firms to customers. In the FSA Plan and Budget 2002/3, one of the FSA's key priorities for the year was to be the pursuit "*of fair treatment of consumers by enhancing the minimum standards for information given by firms to customers*". In the Plan and Budget 2003/4, the reduction of unclear and misleading financial promotions was identified as a major workstream.

## **7. CONTRAVENTION OF RELEVANT STATUTORY PROVISIONS AND REGULATORY REQUIREMENTS**

- 7.1. The penalty is to be imposed pursuant to Section 206 of the Act in respect of breaches of FSA Rules and Principles. Particulars of the breaches are set out below.

### **Systems and Controls**

#### ***Facts and matters relied on***

##### **Organisation and control**

- 7.2. By virtue of FSA Rule SYSC 3.2.6 R AXA was required to take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system. It has failed to do so.
- 7.3. The Firm's compliance manual stated that the primary responsibility for factual and technical accuracy of promotions rested with the ASLD marketing department ("ASLD Marketing") and that the Team's responsibility was to ensure financial promotions complied with the relevant FSA Rules.
- 7.4. E&Y reported that ASLD Marketing placed "significant reliance" on the sign off by the Team such that ASLD Marketing appeared to have relied on the Team to address qualitative as well as regulatory issues. ASLD Marketing had not taken "sufficient ownership of the quality of the material from a compliance perspective".
- 7.5. In relation to notifying the FSA of the errors in the data used to compare the performance of a building society account with that of the BCP, E&Y reported that the process used to inform senior management of identified problems had failed on this occasion through poor application. There was no documented link between the process used to inform senior management of problems and the breaches register for recording material breaches of FSA Rules. Further, that the Firm did not operate a consolidated breaches register or equivalent.

7.6. Internal Audit reported that:

- (1) there was a lack of ownership and communication across ASLD Marketing for ensuring the accuracy of data being produced;
- (2) no control existed to ensure that the hypothetical product used to model past performance for the BCP was reaffirmed;
- (3) inadequate control was exercised over the process of calculating data used to illustrate BCP past performance in promotions for the BCP; and
- (4) controls within the ASLD Marketing and Finance departments, to ensure that the data used to compare the performance of a building society account with the BCP, were weak. There were no controls in operation to ensure that the method of calculation remained consistent. A period of eight months elapsed between discovery of the error in the comparative data used to compare the performance of a building society account with that of the BCP and raising this with the FSA. The delay resulted from poor application of the Firm's internal processes.

Communications with the FSA

- 7.7. On 13 January 2003 FPMT wrote to the Firm regarding concerns over the use of the phrase "A guaranteed cash sum of up to £22,140 plus the potential for bonuses", used in a direct offer promotion for the BCP. On 27 May 2003 the Firm replied confirming that in order to address the FSA's concerns it would use some additional wording to balance the phrase. However, financial promotions continued to use the phrase without including the agreed caveat.
- 7.8. E&Y reported that promotions for the BCP continued to be approved until as late as November 2003 by the Team without the agreed caveat appearing.

Systems and Processes

- 7.9. In relation to the process used by the Firm to generate financial promotions E&Y reported that:
- (1) only some of the process documents were interlinked; and
  - (2) some aspects of the production of marketing literature did not appear on any of the process documents. For example, the sourcing and compilation of performance data for use in financial promotions.
- 7.10. E&Y reported that in relation to signing off ASLD literature the process was set at too high a level without giving parameters about what was acceptable for financial promotions.
- 7.11. E&Y reported that the Advertising Approval Guidelines gave no explanation of how the document was to be used.



- 7.12. Internal Audit reported that there was a lack of process documentation within ASLD Marketing and Finance and the Team, in relation to the various processes used to produce data for the BCP financial promotions. In particular, the calculation error in the building society data was partly due to a lack of documented processes.

#### Monitoring and Maintenance of Systems and Controls

- 7.13. E&Y reported that monitoring of operational activities with ASLD Marketing was largely informal. The Team did not provide senior management at ASLD with management information ("MI") to enable them to assess the ongoing effectiveness of systems and controls relating to financial promotions. The MI produced by the Team focused on turnaround times and volumes processed such that the emphasis was on quantitative rather than qualitative matters.
- 7.14. E&Y reported that there was no formal mechanism or prompt at senior levels for appraising existing products and the way in which they were promoted.
- 7.15. Internal Audit reported that there was no review within ASLD Marketing of the building society past performance figures or calculations to ensure accuracy. The review process did not incorporate controls to detect and prevent inaccuracies and omissions in the calculations or to challenge the appropriateness of the underlying assumptions.

#### Record Keeping

- 7.16. Internal Audit reported that in the calculation of the building society comparative data there was no audit trail of the method of calculations used; this was a breach of AXA policy. Past calculations were not retained and no one had been required to review and sign off the calculations.

#### **Summary**

- 7.17. The systems and controls in relation to financial promotions established and maintained by the Firm failed to:
- (1) ensure that data in financial promotions was signed off at an appropriate level;
  - (2) take account of a recommendation made by the FSA in relation to financial promotions;
  - (3) ensure the accuracy of data included in financial promotions;
  - (4) ensure that instructions from FPMT regarding the particular wording of a financial promotion were incorporated into that promotion in a timely way;
  - (5) monitor and record, on an ongoing basis, the process used to approve financial promotions.

- 7.18. The systems and controls in relation to financial promotions established and maintained by the Firm were documented in a way that was fragmented and lacked clarity.
- 7.19. Relevant staff at AXA had been made aware of and had received training on FSA Rules relating to financial promotions. However, AXA failed to make use of and to apply this knowledge and information in practice.

## **Financial Promotions**

### ***Facts and matters relied on***

- 7.20. By virtue of FSA Rule COB 3.8.4R(1) AXA was required to take reasonable steps to ensure that financial promotions for the BCP and the GO50 were clear, fair and not misleading. It failed to do so in that financial promotions for the BCP and GO50 did not disclose relevant assumptions and the design, content or format of financial promotions for the BCP and GO50 diminished the significance of statements and warnings.

### **BCP and GO50**

- (1) The design, content and format of promotions for the BCP and GO50 diminished the significance of key information about the product, most notably information about the products' risks. For example, general advertisements for both products included bold, prominently positioned statements which highlighted the benefits and free promotional gifts. By contrast, information about the products' risks was given less prominence.

### **GO50**

- (2) The general advertisements for the GO50 emphasised the benefits of low cost premiums but failed to provide any corresponding information about the level of cover that such low cost premiums would provide.

### **BCP**

- (3) Direct offer non real-time promotions for the BCP promoted it as a method of saving comparable with a building society account. The BCP promotions stated that the comparative figures are based on an initial monthly saving of £50 increasing by 20% per annum for the first five years, without clarifying that the additional costs associated with an endowment assurance policy such as life cover, commission and fees could mean that a building society account would provide a better return over this initial five year period. Further, the promotions do not refer to the fact that, unlike a building society account, endowment assurance policy holders, such as BCP customers, do not have instant access to their capital, although the promotions and direct offer packs do confirm that with the BCP, unlike a building society account, security of capital is not guaranteed.
- 7.21. By virtue of FSA Rule COB 3.8.8 R (1) financial promotions issued by AXA were required to include a fair and adequate description of the nature of the investment or

service, the commitment required and the risks involved. The financial promotions issued by AXA for the BCP and the GO50 failed to do so.

### BCP

- (1) A television advertisement for the BCP unduly emphasised the benefits of the investment.
- (2) The television advertisement above emphasised that the customer would have no tax to pay. However, all income and capital gains tax are paid by the life company out of the BCP fund, as such the tax status of the product was not made clear.

### GO50

- (3) The general advertisements for the GO50 failed to provide sufficient information about the nature of the guaranteed cash sum or make clear that being a without-profits policy, the GO50 does not provide any protection against inflation.
- (4) The general advertisements for the GO50 emphasised the benefits of low cost premiums and promoted different reasons for taking out the plan but failed to give sufficient prominence to the risks/drawbacks. In particular, the general advertisements for the GO50 failed to make clear that depending on how long the policyholder lives, the policyholder could pay more in premiums than the guaranteed cash sum and also failed to explain that if the policyholder cancels the policy they are likely to get back less than the value of the premiums paid into the policy and nothing back if they cancel the policy in the early years. The consequences of discontinuing premium payments were also not made clear.

### **Communications with the FSA**

- 7.22. By virtue of FSA Rule SUP 15.3.11R AXA was required to notify the FSA of a significant breach of an FSA Rule, including a Principle, immediately it became aware or had information which reasonably suggested that a Rule or Principle breach had occurred. It has failed to do so.

### ***Facts and matters relied on***

- 7.23. Direct offer and general advertising promotions for the BCP included a bar graph depicting a fifteen year comparison of the performance of the BCP with that of a notional “typical building society ordinary account”. From January 2002 until April 2003 the data used within the comparison was incorrect.
- 7.24. ASLD discovered the error in the comparative data on 2 April 2003 when a similar calculation was required for another project. At least 6 members of staff were aware of this issue which was described in an internal AXA email chain as “*potentially a notifiable event.*” However, the FSA was not informed of this until the Firm wrote to the FSA on 19 November 2003. This letter, which was received by the FSA on 1

December 2003, did not confirm when the error had first been identified but stated that the problem had been rectified.

### **Breach of FSA Principles**

- 7.25. By virtue of FSA Principles 3 and 7 AXA was required to take reasonable care to organise and control its affairs reasonably and effectively and to communicate with its clients in a way that was clear, fair and not misleading. It has failed to do so.

### ***Facts and matters relied upon***

- 7.26. In relation to its approval and issue of financial promotions, ASLD failed to organise and control its internal affairs in a responsible manner; failed to take reasonable steps to ensure that accurate information was contained in financial promotions; failed to ensure that financial promotions were signed off at an appropriate level of seniority; and failed to have a clearly documented and monitored process for the approval of financial promotions. Errors in financial promotions meant that ASLD failed to communicate with prospective customers in a way that was clear, fair and not misleading.

## **8. RELEVANT GUIDANCE ON SANCTION**

- 8.1. The principal purpose of the imposition of a financial penalty is to promote high standards of regulatory conduct. The FSA seeks to do this by deterring firms who have breached regulatory requirements from committing further contraventions, helping to deter other firms from committing contraventions and demonstrating generally to firms the benefits of compliant behaviour.
- 8.2. The FSA's policy on the imposition of financial penalties is set out in Chapter 13 of the Enforcement Manual ("ENF 13") which forms part of the FSA Handbook. Paragraph 13.3.3 of the Enforcement Manual sets out the factors that may be of particular relevance in determining the appropriate level of financial penalty.
- 8.3. It is stated at paragraph 13.3.4 of the FSA Enforcement Manual that the criteria listed in the Manual are not exhaustive and all relevant circumstances of the case will be taken into consideration.
- 8.4. In determining whether a financial penalty is appropriate, and its level, the FSA is required therefore to consider all the relevant circumstances of the case. The FSA considers the following factors to be particularly relevant in this case.

### **The seriousness of the misconduct or contravention**

- 8.5. The level of financial penalty must be proportionate to the nature and seriousness of the contravention. The FSA has considered the seriousness of the contraventions, including but not limited to: the nature of the requirements breached; the number and duration of the breaches; the identification of the contraventions by the Firm's senior management; and the extent to which problems were systemic.
- 8.6. Details of the breaches identified in this case are set out above. The breaches identified in this case are of a serious nature for the following reasons:

- (1) the wide circulation of the financial promotions;
- (2) there was the potential to mislead a large number of retail consumers;
- (3) the extended period of time that the data errors were present in financial promotions for the BCP;
- (4) although the data errors were identified and notified to the FSA by the Firm the FSA was not informed immediately the Firm had identified the error; and
- (5) in relation to the data errors, the Firm's internal processes to raise problems with senior management had been incorrectly applied.

**The extent to which the contravention is deliberate or misconduct was deliberate or reckless**

- 8.7. There is no evidence that the Firm deliberately contravened FSA Rules and Principles.

**The size, financial resources and other circumstances of the firm**

- 8.8. There is no reason to believe that the Firm will not be able to pay the financial penalty.

**The amount of profit accrued or loss avoided**

- 8.9. There is no evidence that the Firm deliberately set out to accrue additional profits as a result of its failings.

**Conduct following the contravention**

- 8.10. The Firm has actively sought to improve its procedures to ensure future compliance. It is also taking suitable remedial action, where appropriate, in relation to a significant proportion of the affected customers.

**Disciplinary record and compliance history**

- 8.11. The Firm has not been subject to any previous enforcement action.

**Previous action by the FSA and other regulatory authorities in relation to similar failings**

- 8.12. The FSA has in the past taken action against firms for systems and controls and for advertising failings. This action has included the imposition of financial penalties. The FSA has taken these penalties into account.

**MANNER OF PAYMENT**

The penalty must be paid to the FSA in full.

## **TIME FOR PAYMENT**

The Penalty must be paid to the FSA no later than 4 January 2005, being not less than 14 days beginning with the date on which this notice is given to you.

## **IF PENALTY NOT PAID**

If all or any of the Penalty is outstanding on 4 January 2005, the FSA may recover the outstanding amount as a debt owed by you and due to the FSA.

## **IMPORTANT**

This Final Notice given to you in accordance with section 390 of the Act.

### **Publicity**

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.

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

### **FSA Contacts**

For more information concerning this matter generally, you should contact Graham Turner at the FSA (direct line 020 7066 1432/fax: 020 7066 1433).

Julia Dunn  
Head of Retail Selling  
FSA Enforcement Division