Financial Services Authority

FINAL NOTICE

To:	Bank of Scotland Plc
Of:	The Mound Edinburgh Midlothian EH1 1YZ
FSA Reference Number:	FRN 169628
Date:	23 May 2011

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 ACTION

1.1. The FSA gave Bank of Scotland (the Firm or BOS) a Decision Notice on 23 May 2011 which notified the Firm that pursuant to section 206 of the Financial Services and Markets Act 2000 (the Act), the FSA had decided to impose a financial penalty of £3.5 million on the Firm is in respect of breaches of Principles 3 (management and control) and Principle 6 (customers' interests) of the FSA's Principles for Businesses (the Principles) and associated rules between 30 July 2007 and 31 October 2009 (the Relevant Period) in relation to the Firm's complaint handling arrangements.

1.2. The Firm confirmed on 23 May 2011 that it will not be referring the matter to the Upper Tribunal (Tax and Chancery Chamber).

1.3. BOS has agreed to settle this matter at an early stage of the FSA's investigation. It therefore qualifies for a 30% (Stage 1) reduction in penalty pursuant to the FSA's executive settlement procedures. Were it not for this discount, the FSA would have sought to impose a financial penalty of £5 million on BOS.

1.4. BOS has agreed to carry out a review of its handling of complaints related to retail investments as detailed in this Notice. To date, the Firm has paid redress in the amount of £2.4 million.

1.5. Accordingly, for the reasons set out below, the FSA imposes a financial penalty on the Firm in the amount of £3.5 million.

2. REASONS FOR THE ACTION

2.1. Between 30 July 2007 and 31 October 2009, BOS received 2,592 advice related complaints (the Complaints) about its sales of Collective Investment Plan, Personal Investment Plan, the Guaranteed Growth Bond, ISA Investor and Guaranteed Investment Plan (together, the Investments) in the Relevant Period. BOS's complaint handling arrangements for the Investments breached the FSA's Principles and rules.

2.2. In relation to the FSA's Principles, BOS failed to:

(1) take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems (Principle 3); and

(2) pay due regard to the interests of its customers and treat them fairly (Principle 6).

2.3. BOS also breached a number of rules contained in those parts of the FSA's Handbook (the Handbook) which are entitled Dispute Resolution: Complaints (DISP) and Senior Management Arrangements, Systems and Controls (SYSC). Details of the rules and related guidance and the dates they were in force are set out in the appendix to this Notice.

2.4. In particular, BOS failed to:

(1) ensure its complaint handlers investigated the Complaints properly by taking account of all relevant information. For example, the guidance provided to complaint handlers did not require complaint handlers to contact customers when this was necessary to resolve the Complaints, to obtain all relevant information from sales advisers and to consider information which was readily available on BOS's systems but not documented in BOS's sales files;

(2) ensure the Complaints were assessed competently and fairly. Complaint handlers did not always adopt a balanced and impartial approach when assessing the available evidence. This resulted in some poor decisions on whether the Investments were suitable for customers who complained. As a result, BOS rejected some of the Complaints when it should have upheld them and did not appropriately compensate affected customers;

(3) have an adequate process in place to feed back to its complaint handlers analysis of trends in complaints decisions. Lessons learned from past complaints, including those determined by the Financial Ombudsman Service (FOS), were not reflected promptly in the Firm's complaint handling guidance. As a result, complaint handlers were not always aware of and did not always have appropriate regard to emerging issues when deciding the Complaints; and

(4) did not carry out timely and effective root cause analysis of the Complaints it received to enable it to identify and remedy issues in its processes which could have been highlighted by those complaints. If BOS had carried out appropriate analysis in a timely manner it would have identified, sooner than it did, opportunities to improve its processes. For example as explained in paragraphs 4.23 to 4.33, BOS could have improved earlier the documentation and evidence around the discussion concerning its psychometric risk profiling tool which was used by the Firm to assess a customers' general attitude to investment risk in the period 30 July 2007 to 1 March 2010.

2.5. As a consequence of the above failings, customers who complained about the Investments were not treated fairly, in that a significant number of the Complaints were rejected by BOS when they should have been upheld.

2.6. BOS's breaches are viewed as particularly serious. The reasons for this are:

(1) the failings led to a significant number of the Complaints being wrongly decided. The Firm reviewed a sample of 275 of the Complaints about the Investments which it originally rejected (and which were not referred to the FOS). BOS has decided, in 45% of such cases, to overturn the original decision and to now uphold the Complaint. Of the Complaints it will now uphold, 77% were made by inexperienced customers and 55% were from those aged over 60 years. The FSA has conducted it's own review of BOS's complaint decisions and the FSA's findings are consistent with these results;

(2) BOS was alerted to concerns about its handling of complaints at an early stage during the Relevant Period as a result of the FOS overturning about 46% of BOS's decisions to reject complaints. Despite this, the Firm failed to take prompt and effective action to address those concerns; and

(3) although BOS strengthened its management information and root cause analysis of the Complaints in July 2008, it failed to make sufficient improvements in a timely manner.

2.7. BOS' failures therefore merit the imposition of a substantial financial penalty. In deciding upon the level of disciplinary sanction, the FSA has taken into account a number of factors, including:

(1) the actual and potential number of customers placed at risk. During the Relevant Period, 2,592 Complaints were received in relation to the Investments;

(2) a large proportion of customers who complained about the advice they were given regarding the Investments were over 60 years of age and/or were inexperienced in investment products;

(3) the mis-conduct spanned more than 2 years;

(4) to date, £2.4 million in compensation has been paid to customers whose complaint was upheld following a review by BOS of its initial decision to decline the complaint. It is expected that further compensation of around £15 million may be paid;

(5) BOS has worked in an open and co-operative way with the FSA throughout the investigation. The Firm will review all complaints that it rejected between 1 February 2004 and 31 December 2009 and which were not subsequently referred to the FOS in relation to advice given to customers to invest in any of BOS's retail investment products. BOS has also agreed to proactively undertake a targeted review of its sales of Investments to the 8,000 customers who were classed as having a cautious general approach and attitude to investment risk under its psychometric risk profiling tool in use between 30 July 2007 and 1 March 2010. All customers whose complaint or sale will be reviewed have been identified and BOS will proactively pay compensation where due. BOS has also made changes to its sales process and improved its complaint handling arrangements.

3. RELEVANT STATUTORY PROVISIONS

3.1. Under section 2(2) of the Act, the FSA's statutory objectives include protecting consumers.

3.2. Section 206 of the Act provides:

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

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

FSA's Principles and rules

3.4. The FSA's 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.

3.5. The FSA's rule-making powers are set out in Chapter I of Part X of the Act (Rules and Guidance). In accordance with its powers and provisions under this part of the Act, the FSA has made rules, in particular, in respect of Senior Management Arrangements, Systems and Controls and Dispute Resolution: Complaints.

3.6. The relevant Principles, rules and related guidance are set out in the Appendix to this Notice.

4. FACTS AND MATTERS RELIED ON

Background

4.1. BOS is a retail bank with an extensive branch network and sales force. It was authorised by the FSA on 1 December 2001. The Firm has permission from the FSA to carry on regulated activities in relation to, among other things, advising on investments and arranging deals in investments.

4.2. The failings identified in this Notice are confined solely to BOS, operating under its Bank of Scotland and Halifax brands in the UK.

4.3. Between 30 July 2007 and 31 October 2009, BOS received 2,592 advice related Complaints about its sales of the Investments in the Relevant Period. The total number of the Investments bought in the Relevant Period is 573,787.

FSA's thematic review

4.4. In mid 2009, as part of the FSA's more intensive and intrusive approach to the supervision of conduct risks, the FSA undertook a review of complaint handling within BOS. This work was conducted as part of a wider review of complaint handling by major banks, the findings of which are set out in the FSA's report entitled "Review of complaint handling in banking groups" dated April 2010.

4.5. As part of this work, the FSA reviewed 65 advice-related complaints. In 30 (46%) of the 65 complaints reviewed, the FSA identified concerns around whether BOS had investigated the complaint as required by DISP. In 32 (49%) complaints, the FSA did not agree with BOS's decision to reject the complaint. The review also raised concerns around the adequacy of BOS's root cause analysis of complaints, including concerns related to whether BOS was adequately analysing its complaints to understand why customers were complaining and to consider whether it could make any changes to its processes.

Firm's review of past complaints

4.6. During the course of the FSA's investigation, BOS conducted its own review of a sample of 275 of the Complaints about the Investments which it originally rejected (and which were not subsequently referred to the FOS). Of those reviewed, BOS found that:

(1) 45% should have been upheld, rather than declined. In a further 8% of cases the decision to decline the complaint was 'borderline';

(2) in 77% of complaints which should have been upheld (amounting to 35% of the overall sample population), a reason for overturning the original decision was a failure by the complaint handler to properly assess whether BOS's original assessment of the customer's attitude to investment risk was appropriate, taking into account all the available evidence.

Sales and complaint handling arrangements

4.7. The Investments were recommended to customers by BOS's branch-based investment sales staff.

4.8. The information taken account of by BOS's sales staff when making a recommendation to a customer in the Relevant Period included the results from a psychometric risk profiling questionnaire completed by the customer (which provided an insight into the customers general approach and attitude to taking investment risk), together with information obtained from the customer during face to face meetings. The information gathered assisted sales staff to assess the customer's attitude to taking investment risk for the customer's specific aims and objectives and to decide the appropriate product to recommend, if any.

4.9. Customers who subsequently complained about the advice they were given in relation to the Investments were referred to designated teams in BOS's central complaint handling unit. These teams were responsible for handling Regulated Investment advice complaints for all business areas within BOS's Retail Division. The central complaint handling unit also produced high level management information about complaints for BOS's business areas which sold the Investments. The unit was also responsible for writing policy and guidance for complaint handlers.

4.10. In BOS's case, the proportion of the Complaints received during the Relevant Period was less than 0.5% of all sales of the Investments. Nonetheless, the FSA requires firms to give appropriate guidance to their complaint handlers to enable them to identify promptly potential concerns in relation to investment-related complaints and to uphold these complaints in the appropriate circumstances. BOS failed to ensure it had robust complaint handling arrangements in place to ensure this. As a result, the Firm's complaint handlers rejected many of the Complaints when they should have upheld them and customers were not treated fairly. BOS has made changes to its sales processes and improved its complaint handling arrangements.

Failure to investigate complaints properly

4.11. During the Relevant Period, BOS did not give its complaint handlers sufficient guidance on how to investigate complaints properly, as required by the FSA's rules, by gathering all relevant information.

4.12. In particular, BOS's complaint handling processes were flawed because:

(1) it was not mandatory for complaint handlers to contact the customer to obtain information which they needed to make an appropriate decision on a complaint. As a result, complaint handlers issued some final decisions which were based on incomplete information. If the customer did not use their own initiative to provide the missing information to BOS, they could have missed out on compensation which they were entitled to. Some customers may not have known that the information was relevant to the complaint or that BOS did not have it;

(2) complaint handlers were not given appropriate guidance on how to obtain information from BOS's sales staff which was relevant to a complaint.

Complaint handlers sent a standard form to BOS's sales staff asking them to respond generally to the complaint. When sales staff failed to respond specifically to each of the substantive issues raised by the complainant or gave an inadequate response, complaint handlers were not required to investigate further by asking for additional information; and

(3) prior to August 2009, the guidance to complaint handlers did not require them to consider information which was readily available elsewhere on BOS's systems but which was not documented in customer sales files. For example, complaint handlers may have been able to ascertain from such information how customers had previously invested their money. This information may have impacted on how complaint handlers assessed whether it was right for BOS sales staff to make recommendations to customers to invest in particular Investments or to switch out of existing products.

4.13. As a result of the above failings, complaint handlers did not in a significant proportion of cases gather information which they should have obtained as part of their routine investigation of complaints.

Failure to assess complaints fairly

Inadequate regard to customers' circumstances as a whole

4.14. The failures to investigate competently contributed to complaint handlers determining Complaints without an adequate understanding of customers' circumstances as a whole at the time they were advised in relation to the Investments. This led to Complaints which should have been upheld being wrongly rejected and, in these cases, customers were deprived of compensation which they were entitled to.

4.15. Although BOS revised its complaint handling policy in July 2008 and sought to encourage its complaint handlers to consider all relevant information when deciding complaints, the revised policy was ineffective and complaint handlers continued to make poor decisions. As a result, the Firm's uphold rates continued at a lower level than was justified. In August 2009 more detailed guidance was given to complaint handlers and in November 2009 further improvements were made.

Undue regard for compliance with BOS's sales process

4.16. Prior to April 2008, there was an over-emphasis in BOS's complaints handling policy on whether sales staff had complied with the Firm's own procedures when assessing whether an individual complaint should be upheld. Complaint handlers inappropriately relied on compliance with the Firm's sales processes and provision of policy documents as sufficient evidence that sales staff had properly explained the key features and risks associated with the Investments to the customer. However, complaint handlers should have been instructed to objectively assess the merits of each complaint based on a consideration of the issues raised by the customer.

Poor decisions relating to the assessment of the suitability of advice

4.17. BOS made poor decisions in assessing the suitability of the Investments for some of the customers who complained. Complaint handlers did not assess accurately whether the Investments exposed customers to a level of risk which was more than they were willing to accept and able to take. Nor did they uphold complaints from customers who were advised to invest too large a proportion of their total available funds into investment products. Customers who were inexperienced in investments were not properly identified and complaint handlers did not take this into account appropriately when determining the suitability of the advice they were given.

Inadequate arrangements for cascading complaints decisions

4.18. BOS failed to have adequate arrangements in place for cascading analysis of trends in complaints upheld by the Firm and the FOS to its complaint handlers. From July 2008, BOS compiled data on trends in its own complaints decisions but it was not until April 2009 that BOS undertook detailed analysis of these trends. Nor did it give appropriate guidance to its complaint handlers in relation to them.

4.19. Although informal communication of these issues did on occasion occur, the lack of any formal arrangements meant that information was not communicated on a consistent basis and complaint handlers were not always aware of and did not always take account of them when deciding complaints. This increased the risk of complaints being dealt with inconsistently and unfairly.

4.20. For example, BOS identified, in November 2007, that the FOS was then overturning the decision on more than 40% of BOS complaints referred to it. Trends from the cases upheld by FOS included customers who were in or near retirement, had little or no experience of investment products and who had a very low appetite for investment risk.

4.21. Once BOS had identified this issue, it should have promptly updated its guidance for complaint handlers to instruct them on the additional issues to consider when assessing whether to uphold complaints from these types of customers. However, it was not until November 2008 that it gave guidance to its complaint handlers about the approach they should take. In addition, BOS should have considered whether it needed to act on its own initiative to carry out a review of its past advice-related complaints from such customers to ensure they did not suffer detriment or were not otherwise disadvantaged as a result of BOS's handling of their complaint.

4.22. BOS failed to take prompt and effective action to address this issue, despite having been alerted to it at an early stage and the risk that customers were not treated fairly.

Failure to perform adequate root cause analysis of complaints

4.23. During the Relevant Period, BOS failed to carry out timely and effective root cause analysis of the Complaints it received to enable it to identify and remedy issues in its processes which could have been highlighted by those Complaints.

Failure to investigate properly potential root causes

4.24. BOS placed too great a reliance on its low uphold rate for complaints in determining whether it was appropriate to undertake further work to investigate the root causes of the Complaints it received. This over reliance on low uphold rates was wrong because:

(1) BOS knew the FOS was overturning 40-50% of its decisions to decline complaints;

(2) BOS recognised before July 2008 that its management information and root cause analysis needed to be strengthened to ensure that it could be certain it was treating customers fairly; and

(3) notwithstanding the impact of volatile market conditions in 2008, at which point BOS's advice related complaints more than doubled, BOS should have more fully considered whether that increase included an increase in the proportion of legitimate complaints and the root causes of any such complaints.

4.25. It is now clear, from the results of the reviews of the complaints referred to in paragraphs 4.4 to 4.6 above, that BOS's low uphold rate was due to poor complaint handling.

Deficiencies in record keeping processes

4.26. Deficiencies in BOS's record keeping processes for complaint handlers increased the risk that potential root causes would continue undetected.

4.27. Whilst complaint handlers were asked to keep records of their reasons for upholding complaints, they were told in written guidance to take care when pointing to failings on the part of sales staff. This was because if they identified such failings, these were noted in BOS's records of the sales performance of individual staff members and could have led to BOS determining that they were no longer competent to sell the Investments. In addition, complaint handlers were advised not to point to failings in BOS's sales processes other than in exceptional circumstances.

4.28. As a result of the above guidance, complaint handlers were inappropriately influenced to indicate the reason for upholding a complaint was 'unclear'.

Delays in improving processes around BOS's risk profiling tool

4.29. From July 2008, the root cause analysis carried out by BOS was ineffective in determining whether it was necessary and appropriate to take action to improve any underlying processes that affected a wider population of customers. If BOS had carried out appropriate analysis of the root causes of the Complaints it received in a timely manner, it would have identified, sooner than it did, opportunities to improve its processes.

4.30. The failures in BOS's root cause analysis were in part due to weaknesses in the underlying documentation. For example, some customers complained that the Investments, which were recommended to them, were too risky for them. Their general appetite for taking investment risk had been determined by BOS with the assistance of the psychometric risk profiling tool. The tool aided discussions between BOS's sales staff and customers, helping to provide a structured and consistent starting point for discussions around the customer's specific attitude to investment risk in relation to a particular need. However, the lack of adequate documentation and evidence of these discussions contributed to BOS's failure to properly uphold Complaints in the appropriate circumstances.

4.31. If BOS had conducted appropriate root cause analysis, this would have enabled the Firm to identify opportunities earlier to improve its documentation and evidence from the point of sale, particularly for those customers with a general attitude to investment risk of Cautious. It could have improved its processes by requiring its sales staff to record a fuller explanation of their recommendations to customers to invest in the Investments where the risks associated with the Investments might appear to be inconsistent with the customer's responses to the questions in the risk profiling tool.

4.32. More detailed documentation was needed to allow BOS's complaint handlers to better determine complaints, including upholding more Complaints in appropriate circumstances and to enable BOS to take comfort from its root cause analysis that it had a robust and effective sales process in place.

4.33. BOS will carry out a targeted review of its sales of investment products to the 8,000 customers who purchased Investments and whose answers to the questions asked under the psychometric risk profiling tool in use between 30 July 2007 and 1 March 2010 indicated that they had a general attitude to taking investment risk that was cautious. All customers whose sale will be reviewed have been identified and BOS will proactively pay compensation where necessary.

5. ANALYSIS OF BREACHES

5.1. On the basis of the facts and matters set out above, BOS breached Principle 3 and Principle 6 of the FSA's Principles for Businesses.

Principle 3 – Management and control

5.2. Principle 3 states:

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

5.3. By reason of the matters set out in paragraphs 4.1 to 4.33 above, BOS breached Principle 3 by failing, during the Relevant Period, to have effective procedures in place to ensure advice-related Complaints about the Investments were investigated properly and assessed competently and fairly by its complaint handlers. The Firm also breached Principle 3 because it failed to have appropriate processes in place for promptly feeding back to its complaint handlers analysis of trends in the Firm's decisions on these Complaints and to investigate and correct their root causes.

Principle 6 (Customers' interests)

5.4. Principle 6 states:

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

5.5. By reason of the matters set out in paragraphs 4.11 to 4.33 above, BOS breached Principle 6 by failing to ensure that customers who complained about the advice they were given in relation to the Investments had their complaints investigated properly and assessed competently and fairly, taking into account all relevant information.

5.6. In addition to breaching Principles 3 and 6, the Firm breached the following rules contained in the parts of the FSA Handbook entitled Senior Management Arrangements, Systems and Controls (SYSC) and Dispute Resolution: Complaints (DISP) in relation to the Complaints during the periods referred to in the Appendix. Specifically, in relation to BOS's failures relating to:

(1) the investigation of complaints detailed in paragraphs 4.11 to 4.13 above, BOS breached SYSC 6.1.2R, DISP 1.2.1R(1), DISP 1.2.21R, DISP 1.3.1R and DISP 1.4.1R(1). In addition, BOS's actions were not consistent with the guidance given in DISP 1.2.4G;

(2) the assessment of complaints detailed in paragraphs 4.14 to 4.17, BOS breached SYSC 6.1.2R, DISP 1.2.1R(1), DISP 1.2.21R, DISP 1.3.1R, DISP 1.4.1R(2) (a) to (c). BOS's actions were also contrary to the guidance given in DISP 1.4.2G in relation to the factors which may be relevant in the assessment of a complaint under DISP 1.4.1R(2). In addition, BOS did not consider whether it needed to act on its own initiative to carry out a review of its past advice related complaints for elderly, inexperienced and vulnerable customers in the circumstances described in paragraphs 4.20 to 4.21 above, and this was not consistent with the guidance given in DISP 1.3.5G;

(3) its arrangements for cascading analysis of trends in complaints upheld by the Firm and the FOS to its complaint handlers detailed in paragraphs 4.18 to 4.21, BOS breached SYSC 6.1.2R, DISP 1.2.21R and DISP 1.3.1R;

(4) its root cause analysis of complaints detailed in paragraphs 4.23 to 4.33, BOS breached SYSC 6.1.2R, DISP 1.2.21R, DISP 1.3.3R. In relation to the Collective Investment Plan (which is MiFID business) and the Firm's management information relating to the root causes of Complaints about this product, the Firm's conduct was not consistent with the guidance given in DISP 1.3.4G (which applies only in relation to MiFID business).

6. ANALYSIS OF SANCTION

Determining the level of the financial penalty

6.1. The FSA's policy in relation to the imposition of financial penalties is set out in Chapter 6 of the Decision Procedure and Penalties Manual (DEPP) which forms part of the FSA Handbook. It was previously set out in Chapter 13 of the Enforcement Manual (ENF). The Manuals set out the factors that may be of particular relevance in determining the appropriate level of financial penalty for a firm or approved person. The criteria are not exhaustive and all relevant circumstances of the case are taken into consideration.

Deterrence

6.2. The principal purpose of imposing a financial penalty is to promote high standards of regulatory conduct by deterring firms which have breached regulatory requirements from committing further breaches, deterring other firms from committing similar breaches, and demonstrating generally the benefits of compliant behaviour.

Seriousness of the breaches

6.3. The FSA has had regard to the seriousness of the breaches, including the nature of the requirements breached, the number and duration of the breaches and the number of customers who were exposed to risk of loss. For the reasons set out at paragraph 2.6 above, the FSA considers that the breaches identified in this case are of a particularly serious nature.

The extent to which the breaches were deliberate or reckless

6.4. The FSA does not consider that BOS deliberately or recklessly contravened regulatory requirements.

The size, financial resources and other circumstances of the firm

6.5. BOS has a prominent position in the retail consumer investment market. There is no evidence to suggest that BOS is unable to pay a financial penalty.

Conduct following the breaches

6.6. In consultation with the FSA, BOS is taking the following steps:

(1) BOS is carrying out a wide ranging review of advice related complaints in relation to investment products sold by its business areas. BOS will pay compensation to all customers whose complaints should have been upheld;

(2) BOS is also carrying out a targeted review of its sales of the Investments to the 8,000 customers who were classified as having a general attitude to risk of Cautious as a result of the use of the psychometric risk profiling questionnaire in use between 30 July 2007 to 1 March 2010; and

(3) customers who may have been affected have been identified and BOS will proactively pay compensation to those who have suffered financial loss.

6.7. BOS has improved its complaint handling and made changes to its sales processes and the FSA expects that these changes will lead to improved outcomes for customers.

6.8. BOS has co-operated fully with the FSA in the course of its investigation.

Disciplinary record and compliance history

6.9. BOS has not previously been the subject of disciplinary action by the FSA in relation to its complaint handling arrangements. In January 2004, the FSA took enforcement action against the Firm in relation to its money laundering arrangements, imposing a fine of £1,250,000.

Previous action taken by the FSA in relation to similar findings

6.10. In determining whether and what financial penalty to impose on BOS the FSA has taken into account action taken by the FSA in relation to other authorised persons for comparable behaviour.

FSA guidance and other published material

6.11. The FSA has had regard to the fact that it has published a series of high profile communications highlighting the requirement upon firms to treat customers fairly, particularly in the area of complaints handling.

7. CONCLUSION

7.1. Having regard to the seriousness of the breaches and the risk they posed to the FSA's statutory objective of protecting consumers, the FSA has imposed a financial penalty of £3.5 million on BOS.

8. DECISION MAKERS

8.1. The decision which gave rise to the obligation to give this Final Notice was made by the Settlement Decision Makers on behalf of the FSA.

9. IMPORTANT

9.1. This Final Notice is given to the Firm in accordance with section 390 of the Act.

Manner of and time for Payment

9.2. The financial penalty must be paid in full by the Firm to the FSA by no later than 6 June 2011, 14 days from the date of the Final Notice.

If the financial penalty is not paid

9.3. If all or any of the financial penalty is outstanding on 7 June 2011, the FSA may recover the outstanding amount as a debt owed by the Firm and due to the FSA.

Publicity

9.4. 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.

FSA contacts

9.5. For more information concerning this matter generally, you should contact Samantha Carruthers (Tel: 020 7066 0174/fax: 020 7066 0175) of the Enforcement and Financial Crime Division of the FSA.

William Amos
FSA Enforcement and Financial Crime Division