
FINAL NOTICE

To: Chariot Mortgage Services Limited

Address: 190-192 Washway Road
Sale
Cheshire
M33 6RN

Date: 15 April 2008

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 Chariot Mortgage Services Limited ("Chariot") a Decision Notice on 15 April 2008 ("the Decision Notice") which notified Chariot that, for the reasons listed below and pursuant to section 206 of the Financial Services and Markets Act 2000 ("the Act"), the FSA had decided to impose a financial penalty of £10,500 on Chariot in respect of breaches of Principles 7 and 9 of the FSA's Principles for Businesses ("the Principles"), and of the rules in Chapter 4 of the section of the FSA's

Handbook entitled “Mortgages and Home Finance: Conduct of Business Sourcebook” (“MCOB”), between 31 October 2004 and 23 October 2007 (“the relevant period”).

- 1.2. Chariot confirmed on 28 March 2008 that it will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. Accordingly, for the reasons set out below and having agreed with Chariot the facts and matters relied on, the FSA hereby imposes a financial penalty on Chariot of £10,500.

2. REASONS FOR THE ACTION

- 2.1. The FSA has concluded that, during the relevant period, Chariot failed to take reasonable steps to ensure the suitability of advice given to customers and failed to pay due regard to the information needs of its clients and to communicate with them in a way which was clear, fair and not misleading.
- 2.2. The FSA has made the following findings.
 - (1) Chariot failed to take reasonable steps to ensure the suitability of its advice in accordance with Principle 9 in that it:
 - (a) failed to obtain from customers, and make records of, sufficient information to demonstrate the suitability of its advice, including information about their particular needs and preferences, and personal and financial circumstances; and
 - (b) recommended mortgage contracts which appeared not to take into account customers’ stated needs and circumstances by, for example, recommending interest only mortgages to customers who, according to Chariot’s files, had indicated that certainty of their mortgages being repaid in full at the end of the term was a key consideration (and where there was no documented evidence of any discussion about repayment vehicles and timescales for moving to capital & interest contracts);
 - (2) Chariot failed to pay due regard to the information needs of its clients and communicate information to them in a way that is clear, fair and not

misleading, in breach of Principle 7, in that it did not source mortgage contracts from the whole of the market despite claiming to do so.

2.3. Chariot agreed to settle at an early stage of the FSA's investigation and therefore qualifies for a 30% (stage 1) discount under the FSA's executive settlement procedures. Were it not for this reduction the FSA would have sought to impose a financial penalty of £15,000 on Chariot.

2.4. Chariot's failures are considered by the FSA to be serious for the following reasons.

- (1) The failure to record sufficient personal and financial information, and reliance on the adviser's informal knowledge of customers' personal and financial circumstances, meant that the suitability of advice could not be demonstrated, and all customers were therefore exposed to the risk of being recommended unsuitable mortgage contracts. Some customers may not therefore have been recommended the most appropriate or suitable mortgage contracts.
- (2) Lenders may have entered into mortgage contracts in circumstances where the information regarding customers' financial positions made available by Chariot was inaccurate.
- (3) The widespread record keeping failures identified by the FSA would hinder any independent assessments completed by a third party such as the FSA's supervision staff and the Financial Ombudsman Service if any customer complaints need to be investigated.
- (4) Chariot misled customers by holding itself out as offering mortgage contracts from the whole of the market whereas, in practice, it made selections from a limited number of providers.

2.5. The FSA has taken into account the following mitigating factors.

- (1) Chariot has co-operated fully with the FSA's investigation.
- (2) From October 2007, Chariot started to take action to improve its procedures for obtaining and recording information from customers about their needs and preferences and personal and financial circumstances.

- (3) A skilled person will undertake a past business review, at Chariot's expense, with a view to identifying any unsuitable recommendations (identifying customer detriment with redress to customers where appropriate).

3. STATUTORY PROVISIONS, GUIDANCE AND REGULATORY REQUIREMENTS

- 3.1. The FSA's statutory objectives, set out in section 2(2) of the Act, are market confidence, public awareness, the protection of consumers and the reduction of financial crime.
- 3.2. The FSA has the power, pursuant to section 206 of the Act, to impose a financial penalty of such amount as it considers appropriate where the FSA considers an authorised person has contravened a requirement imposed upon it by or under the Act.
- 3.3. 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. The relevant Principles breached are as follows:
 - (1) Principle 7 (Communications with clients): 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.
 - (2) Principle 9 (Customers: relationships of trust): A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customers who is entitled to rely upon its judgment.
- 3.4. The MCOB rules which have been breached, and details of the guidance to which the FSA has had regard, are set out in Annex 1 to this Notice.

4. FACTS AND MATTERS RELIED ON

Background

- 4.1. Chariot is a mortgage broker which was incorporated in 1995 and became authorised on 31 October 2004 to carry on the following regulated activities:
- (1) advising on regulated mortgage contracts;
 - (2) agreeing to carry on a regulated activity;
 - (3) arranging (bringing about) regulated mortgage contracts;
 - (4) making arrangements with a view to regulated mortgage contracts; and
 - (5) advising on investments (except on Pension Transfers and Pension Opt Outs);
 - (6) arranging (bringing about) deals in investments;
 - (7) dealing in investments as agent; and
 - (8) making arrangements with a view to transactions in investments in respect of non-investment insurance contracts.
- 4.2. Chariot advises principally on re-mortgages, although it also arranges mortgages for first time buyers and home movers. Its customer base is mainly from Greater Manchester. Chariot does not advertise its mortgage services. It derives new business through introductions from a local estate agent and from its existing customer base.
- 4.3. Currently, Chariot has one director, Mr Sanjay Nayar, who is also the only mortgage adviser. During the relevant period, Mr Sanjay Nayar was the only adviser permitted to advise on regulated mortgage contracts at Chariot.
- 4.4. Chariot has not been the subject of any previous disciplinary action by the FSA.
- 4.5. Chariot was visited by the FSA in 2007 as part of its “self certification” and “affordability of mortgage contracts” projects. It was one of seven mortgage brokers referred to the FSA’s Enforcement Division from these projects.
- 4.6. The FSA visited Chariot on 31 July and 1 August 2007. During the visit, the FSA reviewed a sample of 15 client files. After the visit the FSA reviewed a further 5 files.

4.7. Based on the visit and review of Chariot's files, the FSA identified the following main issues of concern about Chariot's regulated business:

- (1) the lack of information obtained and recorded about customers' needs and circumstances (for example in seven cases reviewed there was no record of the customers' outgoings);
- (2) the inadequacy of affordability assessments and, in particular, the fact that Chariot used notional rather than actual amounts for customers' outgoings in its affordability assessments;
- (3) anomalies and inconsistencies about customers' need and preferences were found in most of the client files reviewed, such as fact finds stating that customers felt it important to place an upper limit on costs in the early years of the lending term but also stating that the customers did not want to fix mortgage costs for any specified period;
- (4) Key Features Illustration documents apparently being produced before details about the customers had been recorded;
- (5) recommendation of self-certification mortgage contracts in cases where the documented facts of the case suggested that this was not appropriate, with no reasons for the recommendations being recorded on the customers' files (for example, in seven cases reviewed where the customers were employed none of the files recorded why the customers' incomes could not be proven, and in 13 cases reviewed where the customers were self employed none of the files recorded why self employed income could not be proven);
- (6) Chariot held itself out as sourcing mortgage contracts from the whole of the market but in practice recommendations were made entirely on the basis of Mr Nayar's personal knowledge of the market, and it kept no record of product research or explanation of why a particular mortgage contract was recommended.

Analysis of breaches of Principles and rules

- 4.8. In the cases reviewed by the FSA there was evidence that customers had been recommended interest only mortgage contracts that were not consistent with their stated needs and preferences. Eighteen of the files reviewed show that the customers wanted the certainty of their mortgages being repaid at the end of the mortgage terms, with no acceptance of risk of shortfalls, and that they did not wish to rely on investment products to pay off the capital at the end of the terms.
- 4.9. Eight files recorded that the customers took out an interest only mortgages with no explanation as to why this type of contract was considered to be appropriate. It therefore appeared that Chariot had recommended mortgage contracts without having reasonable grounds to conclude that the contracts were appropriate to the customers' needs and preferences.
- 4.10. Chariot failed to gather and/or record sufficient information about clients' personal and financial circumstances to demonstrate affordability of recommended mortgage contracts. Customers' needs and preferences as recorded in Know Your Customer documents were either identical or very similar.
- 4.11. The failure to have regard to customers' stated needs and preferences represents a breach of MCOB 4.7.2R and MCOB4.7.4R (1).
- 4.12. The failure to set out and record on the customers' files the facts and matters supporting the assessment of suitability of recommended mortgage contracts represents a breach of MCOB4.7.17R.
- 4.13. As a result of the failings referred to at paragraphs 4.8 to 4.12 above Chariot failed to take reasonable steps to ensure the suitability of its advice for customers who were entitled to rely upon its judgement. This amounts to a breach of Principle 9.
- 4.14. Chariot claimed to source its products from the whole of the market, but in practice products were chosen from the adviser's personal knowledge of the market. Chariot therefore misled its customers and in effect failed to communicate information to its customers clearly, in breach of Principle 7.

5. ANALYSIS OF THE PROPOSED SANCTION

- 5.1. In deciding to take the action set out above, the FSA has had regard to the guidance published in the FSA's Enforcement Guide ("EG") and in the Decision Procedures and Penalties Manual ("DEPP"). The FSA has also had regard to the appropriate provisions of the FSA's Enforcement Manual ("ENF") which applied during part of the relevant period in which Chariot's misconduct occurred.
- 5.2. The FSA considered the nature and seriousness of the contraventions by Chariot, whether the breaches identified were deliberate or reckless, the number and duration of the breaches, and the number of customers placed at risk (426).
- 5.3. Although the FSA found no evidence that the conduct in issue was deliberate, we concluded from our review of 20 customer files that there was a risk in every case that the customer may have been given unsuitable advice.
- 5.4. The FSA has taken into account Chariot's co-operation, its willingness to take all reasonable steps to meet regulatory requirements on an on-going basis, and the fact that it has not previously been the subject of disciplinary action.
- 5.5. The FSA has taken into account penalties imposed on other authorised persons for similar and more serious conduct and to previous cases where private warnings were given to authorised persons for less serious conduct or more limited record-keeping failures.
- 5.6. The FSA has also taken into account Chariot's size and financial resources.
- 5.7. Having considered all the above circumstances, the FSA has determined that £15,000 (before any discount for early settlement) is the appropriate financial penalty to impose on Chariot.

6. DECISION MAKERS

- 6.1. 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.

7. IMPORTANT

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

Manner of and time for payment

7.2. The financial penalty must be paid by Chariot to the FSA in three equal instalments of £3,500, with the first payment to be received by the FSA on 1 May 2008, the second payment to be received by the FSA on 2 June 2008 and the third payment to be received on 1 July 2008.

If the financial penalty is not paid

7.3. If any of the instalments of the financial penalty are outstanding on the day after the due dates for payment, the FSA may recover the outstanding amounts as a debt owed by Chariot and due to the FSA.

Publicity

7.4. 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.

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

Third party rights

7.6. The FSA has not identified any third party to whom, in the opinion of the FSA, this matter is prejudicial.

FSA contacts

- 7.7. For more information concerning this matter generally, you should contact Chris Walmsley at the FSA (direct line: 020 7066 5894, or fax: 020 7066 5895).

Jonathan Phelan
Head of Department
FSA Enforcement Division