Financial Services Authority

FINAL NOTICE

To: **David Robert Wynne Roberts**

Date of birth: **25 June 1961**

Individual Reference Number: **DRR01043**

Date: **28 July 2010**

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 you, David Robert Wynne Roberts, a Decision Notice on 27 July 2010 which notified you that pursuant to section 66 of the Financial Services and Markets Act 2000 (the "Act"), the FSA had decided to impose a financial penalty of £14,000 on you in respect of a breach of Statement of Principle 7 of the FSA's Statements of Principle and Codes of Practice for Approved Persons (the "Statements of Principle")

1.2. You have agreed to settle at an early stage of the FSA's investigation and have, therefore, qualified for a 30% (Stage 1) discount under the FSA's executive settlement procedures. The FSA would have otherwise sought to impose a financial penalty of £20,000 on you.

1.3. You confirmed on 18 July 2010 that you will not be referring the matter to the Upper Tribunal (Tax and Chancery Chamber).

1.4. Accordingly, for the reasons set out below, the FSA imposes a financial penalty on you in the amount of £14,000.

2. REASONS FOR THE PENALTY

2.1. The FSA has concluded, on the basis of the facts and matters described below, that you have breached the Statements of Principle, and that it is appropriate to impose a financial penalty on you. This penalty relates to your conduct between 28 November 2006 and 31 August 2009 (the "relevant period").

2.2. Specifically, during the relevant period, whilst a director of A-Z Mortgages Limited ("A-Z") you failed to put in place adequate systems and controls at A-Z to ensure that mortgage applications containing false or misleading information were identified, and failed to ensure that A-Z maintained adequate records to explain changes in customers' circumstances, or to evidence the suitability of the advice and product recommendation made by A-Z. You also failed to adequately monitor the activities of an advisor who placed business through A-Z.

2.3. The FSA considers that, by virtue of this conduct, you have breached Statement of Principle 7.

2.4. The FSA considers that a significant aggravating factor in respect of this misconduct is that you failed to be open during a TCF assessment of business practices at A-Z.

2.5. Your conduct is serious because it meant that, for a period of time, A-Z was at risk of being used for financial crime, and also that customers were at risk of receiving unsuitable advice. Further, the FSA relies on the individuals and firms which it regulates being open and co-operative. Your failure to be open with the FSA meant that the FSA was unable, for a period of time, to supervise adequately A-Z and make an accurate assessment of A-Z's business practices.

2.6. The FSA has taken into account that you have been open and co-operative with the FSA's investigation, including admitting your misconduct at an early stage of the investigation.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

3.1. The relevant statutory and regulatory provisions are set out at Annex A.

4. FACTS AND MATTERS RELIED ON

Firm Background

4.1. A-Z is a small mortgage and general insurance broker operating in the Shrewsbury area. It was authorised by the FSA on 31 October 2004 to conduct regulated mortgage business and from 14 January 2005 has also been permitted to conduct insurance mediation business.

4.2. You are the sole director of A-Z. You were approved by the FSA on 31 October 2004 to perform the following controlled functions at A-Z:

(1) CF1 (Director); and

(2) CF8 (Apportionment and Oversight) until 31 March 2009.

4.3. You have also been responsible for insurance mediation at A-Z since 14 January 2005.

4.4. In addition, two individuals have placed mortgage business on behalf of A-Z, working on a self employed basis. The first of those self-employed mortgage advisers placed business through A-Z between May 2004 and March 2007 ("Adviser A") and the second between March 2006 and May 2009 ("Adviser B").

Background to the investigation

4.5. The FSA visited A-Z on 4 April 2006 and conducted a review of its systems and controls (the "April 2006 visit"). During the April 2006 visit, the FSA identified a number of concerns. Particular concerns arising from the April 2006 visit are detailed in paragraphs 4.15, 4.18, 4.19, 4.20 and 4.22 below.

4.6. The FSA also identified a number of customer files which were of particular concern, including with regard to the validity of the income information provided, a lack of customer information on file to enable suitability to be evidenced, insufficient risk warnings where the advice involved debt consolidation, insufficient explanation where self-certification was recommended and inconsistent information on file, for example varying loan amounts. The FSA requested that A-Z review those files and reassess the suitability of advice given in each case. The FSA requested that A-Z take appropriate remedial action should any unsuitable sales be identified.

4.7. You acknowledged the FSA's concerns and notified the FSA in writing of the remedial action which you had taken, including the introduction of new and amended procedures. You also stated that you would review the cases highlighted by the FSA and reassess the suitability of the advice given in those cases.

4.8. Following the April 2006 visit, you also employed the services of an external compliance consultant to assist A-Z in meeting its regulatory obligations.

4.9. On 23 July 2008, the FSA conducted an assessment of A-Z's progress in meeting the requirements of the FSA's Treating Customers Fairly initiative ("TCF") (the "July 2008 assessment"). As a result of the information provided verbally by you during the July 2008 assessment with regards to systems, controls and procedures at A-Z, the FSA concluded that A-Z was in a position to demonstrate that it was treating its customers fairly.

4.10. On 12 and 13 May 2009, the FSA visited A-Z (the "May 2009 visit") and conducted a review of its systems and controls and seven customer files. The FSA identified a number of concerns regarding A-Z's systems and controls, including apparent unsuitable advice, inappropriate use of self-certification and issues surrounding the accuracy of customers' income information recorded on the files.

4.11. The FSA informed you that a number of the concerns identified during the May 2009 visit had also been identified and notified to you following the April 2006 visit, despite you informing the FSA, following the April 2006 visit, that you had addressed those concerns. The FSA also noted that you appeared to have failed to address concerns raised by A-Z's compliance consultants, for example with regard to a lack of customer information on file and a lack of a clear audit trail.

4.12. You accepted some of the FSA's findings and stated that you would take immediate action to address all of the issues which you had previously informed the FSA that you had addressed.

4.13. In the course of the investigation, the FSA subsequently reviewed a further ten customer files containing advice given by you to customers of A-Z between 1 April 2007 and 31 January 2009 (from a total of 184) in relation to regulated mortgage business and identified the following issues.

Failure to take reasonable steps to ensure that A-Z complied with the relevant requirements and standards of the regulatory system

4.14. You failed to establish adequate systems and controls at A-Z to ensure that A-Z complied with the relevant requirements and standards of the regulatory system. In addition, you failed to undertake promptly remedial action which you had stated to the FSA that you had undertaken following the April 2006 visit.

Failure to maintain clear records in relation to arranging and advising on mortgage contracts

4.15. Following the April 2006 visit, the FSA told you that it was concerned that A-Z's records were not kept up to date because changes in customer circumstances were not recorded. The FSA also noted that in some cases there was inconsistent information on file regarding the mortgages recommended. Following the April 2006 visit, you informed the FSA that you would ensure that you recorded changes in customer's circumstances and the type of mortgage recommended.

4.16. However, during the May 2009 visit, the FSA found that A-Z had failed to maintain a clear audit trail on files with regard to changes in the mortgage recommended. A-Z's compliance consultant had written to you in December 2006 noting the importance of putting in place the actions which you had informed the FSA you would be taking.

4.17. In July 2009, following the May 2009 visit, you stated that you had introduced an audit log to be placed on each customer file to ensure a clear audit trail, and that you would ensure that any changes in circumstances would be recorded on file. All ten files reviewed by the FSA in the course of the investigation did not contain a clear audit trail.

Failure to have in place adequate systems and controls to ensure that applications containing false and/or misleading information were identified, by obtaining proof of income

4.18. During the April 2006 visit, the FSA identified a number of files which raised concerns with regard to the validity and accuracy of information provided to A-Z by

applicants regarding their income. The FSA noted that it appeared that no checks had been conducted to verify income information provided by those applicants.

4.19. Following the April 2006 visit, you told the FSA that you would obtain and retain evidence of customer's income on the customers file. However, in six out of the ten files reviewed by the FSA during the course of the investigation, there was either no proof of income, or the evidence on file was not sufficient to support the declared income. Four of those six files related to advice given after the July 2008 assessment. The FSA had also highlighted the accuracy of the customer income information on files to you as an issue following the May 2009 visit.

Failure to make and retain adequate records of why the advice you provided was suitable

4.20. During the April 2006 visit, the FSA identified concerns that the suitability of the recommendations made by you could not be evidenced by the documentation on the customer files.

4.21. The FSA also found that in cases where mortgage transactions involved debt consolidation, insufficient risk warnings were given to customers. Following the April 2006 visit, you wrote to the FSA to confirm that you would ensure customer files would record the customer's financial situation pre and post debt consolidation. Six of the ten files reviewed by the FSA in the course of the investigation involved debt consolidation and three of those files did not show the benefit of debt consolidation by showing the customer's financial situation before and after the advice.

4.22. The FSA's concern that you were failing to ensure A-Z collected adequate information from customers when debt consolidation was being recommended was also communicated to you following the May 2009 visit.

Failure to make and retain adequate records of why the specific product recommended to customers were suitable

4.23. During the 2006 visit, the FSA found that due to a lack of sourcing and lender research on the customer files, it was not possible to assess whether the mortgages recommended were suitable. The FSA requested that you evidence product research on file and clearly explain the rationale for lender selection where the product recommended was not the cheapest.

4.24. In your letter dated 28 November 2006, you committed to ensuring that you kept evidence of your rationale for lender and product selection where the recommended product was not the cheapest. However, during the May 2009 visit the FSA found that there was no evidence of product research on customer files, and in six out of ten files reviewed by the FSA during the course of the investigation there was no justification on file as to why the particular product was recommended when it was not the cheapest.

Failure adequately to supervise Adviser B

4.25. As set out in paragraph 4.5, above, Adviser B placed business through A-Z between March 2006 and May 2009. During the course of the investigation, the FSA

conducted a review of 15 files for business written by Adviser B and found significant issues with those files, including files which contained no suitability letters or no fact finds.

4.26. During the 2008 assessment, you stated to the FSA that you met with Adviser B (who worked in a separate location) once per month to review her work and her files, and that you had regular meetings. However, during the May 2009 visit you accepted that you did not review any of Adviser B's files, leaving that instead to A-Z's compliance consultant. You had been informed by the compliance consultant that it had been unable to review any of Adviser B's files for the whole of 2008.

4.27. The FSA conducted an interview with you on 13 January 2010. During the interview, you broadly accepted the FSA's findings as set out in paragraphs 4.16 – 4.26 above, stating "*I can't not accept…that in 2006, I said I was going to do that, and in 2008, I said I was going to do that, and I have done some of it, but I haven't done it to the standard that it should have been done at*".

The July 2008 assessment

4.28. The FSA considers that your misconduct as detailed in paragraphs 4.15 to 4.26 above is aggravated by the fact that, during the July 2008 assessment, the business practices that you described to the FSA were those that you aspired to, not necessarily what happened in practice.

4.29. Specifically, you informed the FSA that:

(1) fact finds are completed at every customer meeting, and in particular any changes in circumstances are identified and recorded. However, none of the ten files reviewed by the FSA in the course of the investigation contained a clear audit trail, with unexplained changes in customer circumstances contained on the files;

(2) you always confirm evidence of income on self-certified cases. Five of the ten cases reviewed by the FSA in the course of the investigation were self-certification cases, and in two of those cases there was no proof of income on file. More widely, there was inadequate proof of income in six out of the ten cases reviewed;

(3) all customers are given a tailored suitability letter. However, nine out of ten suitability letters reviewed by the FSA in the course of the investigation were not adequately tailored to the customer's circumstances;

(4) you confirmed references for Adviser B. However, you admitted during interview that you had requested the references but never received a response. You also stated in interview that during the July 2008 assessment you had discussed the steps which you would take if you were to recruit someone at A-Z in the future, and that the information you had provided had not been specific to Adviser B; and

(5) you checked Adviser B's files. However, as set out at paragraph 4.25, above, that was not the case.

4.30. During your interview, you denied that you had intentionally misled the FSA during the July 2008 assessment. You did acknowledge, however, that "*I realise that when I spoke to [the assessors], I should have been a bit more open and honest with them, and...not necessarily try and paint a completely rosy picture...I can see in hindsight that by just selling myself, and how I envisaged to do things wasn't always mirrored 100% with what actually happened*".

4.31. The FSA considers that, while you did not deliberately provide false information to the FSA in response to a direct question, you provided information to the FSA during the 2008 assessment which was not fully representative of the business practices at A-Z, and failed to include negative information which the FSA would have reasonably expected to have been made aware. For example, you failed to inform the FSA that A-Z's compliance consultant had repeatedly identified to you concerns regarding A-Z's customer files and the ability of A-Z to evidence the suitability of the advice being given.

4.32. The FSA also considers that many of the statements made by you in your response to the FSA following the April 2006 visit and during the 2008 assessment were misleading because they were standards to which you aspired, but which you described to the FSA as current practice. You acknowledged during interview that "*by actually saying "I will"… that was what I was supposed to do, that's what I wanted to do…I have let myself down by saying "yes, I'm going to do that", and not doing it fully"*.

5. ANALYSIS OF BREACHES

5.1. By reason of the facts and matters referred to at paragraphs 4.15 – 4.26 above, the FSA considers that you failed to comply with Statement of Principle 7 during the relevant period, in that you failed to:

(1) ensure that A-Z maintained clear records in relation to arranging and advising on mortgage contracts, specifically with regard to documenting and explaining changes in customer circumstances;

(2) put in place adequate systems and controls at A-Z to ensure that applications containing false and misleading information were identified;

(3) ensure that A-Z made and retained adequate records of why the advice provided by A-Z was suitable, and also why the specific product recommended was suitable for the customer; and

(4) failed to adequately supervise an adviser who was placing business through A-Z.

6. ANALYSIS OF THE SANCTION

6.1. The FSA's policy on the imposition of financial penalties relevant to the misconduct as detailed in this Notice is set out in Chapter 6 of the version of the Decision Procedure and Penalties Manual ("DEPP") in force prior to 6 March 2010, which formed part of the FSA Handbook. All references to DEPP in this section are references to that version of DEPP. In determining the appropriate level of financial

penalty the FSA has also had regard to Chapter 7 of the Enforcement Guide ("EG") and Chapter 13 of the Enforcement Manual ("ENF") which was in force until 27 August 2007, and therefore during part of the relevant period.

6.2. The principal purpose of imposing a financial penalty is to promote high standards of regulatory 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.

6.3. In determining whether a financial penalty is appropriate the FSA is required to consider all the relevant circumstances of a case.

6.4. DEPP 6.5.2G sets out a non-exhaustive list of factors that may be of relevance in determining the level of a financial penalty (see Annex A, paragraphs 1.15 – 1.16). The FSA considers that the following factors are particularly relevant in this case.

Deterrence (DEPP 6.5.2(1))

6.5. In determining the level of the financial penalty, the FSA has had regard to the need to ensure those who are approved persons exercising management functions act, with their businesses, in accordance with regulatory requirements and standards and to behave towards the FSA in an open and co-operative manner. The FSA considers that a penalty should be imposed to demonstrate to you and others the seriousness with which the FSA regards such behaviour.

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

6.6. Your conduct was serious because it exposed customers of A-Z to the risk of receiving unsuitable advice, and, for a period of time, exposed A-Z to the risk of being used for financial crime.

6.7. Further, the FSA relies on the firms which it regulates being open with it in the course of the regulatory relationship. The business practices you described to the FSA during the July 2008 assessment were those you aspired to, not necessarily what happened in practice. Your failure to be open with the FSA resulted in the FSA being unable to regulate appropriately the business of A-Z. The FSA considers this to be an aggravating factor in your misconduct, increasing the seriousness and potential impact of your breach of Statement of Principle 7.

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

6.8. When determining the appropriate level of financial penalty, the FSA will take into account that individuals will not always have the same resources as 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 a body corporate. The FSA will also consider whether the status, position and/or responsibilities of the individuals 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.

6.9. The FSA recognises that the financial penalty imposed on you is likely to have a significant impact on you as an individual but it is considered to be proportionate in relation to the seriousness of the misconduct and given your position as an approved person performing significant influence functions at A-Z.

The amount of benefit gained or loss avoided (DEPP 6.5.2.G(6))

6.10. The FSA is not aware that you obtained any financial benefit or avoided any loss as a result of the breaches.

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

6.11. The FSA has taken into account your co-operation with the FSA's investigation and the fact that you have now taken steps to satisfy the FSA that A-Z meets regulatory requirements and will do so in the future.

Disciplinary record and compliance history (DEPP 6.5.2G(9))

6.12. The FSA has taken into account the fact that you have not been the subject of previous disciplinary action by the FSA.

6.13. DEPP 6.5.2G(9)(d) states that the FSA may take into account whether the FSA has previously brought to your attention, by way of a private warning, issues related to the conduct that constitutes the breach in respect of which the penalty is imposed. The FSA has taken into account that it has previously issued a private warning to you in relation to a separate but related matter.

7. CONCLUSION

7.1. On the basis of the facts and matters described above, the FSA concludes that your conduct fell short of the minimum regulatory standards required of an approved person and that you have breached Statement of Principle 7.

7.2. The FSA, having regard to all the circumstances, therefore considers the appropriate level of financial penalty to be £20,000 before any discount for early settlement.

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 you 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 you to the FSA by no later than 11 August 2010, 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 12 August 2010, the FSA may recover the outstanding amount as a debt owed by you 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.

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

FSA contacts

9.6. For more information concerning this matter generally, you should contact Mario Theodosiou at the FSA (direct line: 020 7066 5914 / email: mario.theodosiou@fsa.gov.uk).

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Tom Spender
Head of Department, Enforcement and Financial Crime Division

ANNEX A:

1. Relevant Statutory and regulatory provisions

1.1. The FSA's statutory objectives, set out in section 2(2) of the Act, include the protection of consumers.

1.2. The FSA has the power, pursuant to section 66 of the Act, to impose a financial penalty of such amount as it considers appropriate where it appears to the FSA that an approved person is guilty of misconduct and the FSA is satisfied that it is appropriate in all circumstances to take action against the approved person.

1.3. An approved person is guilty of misconduct if, while an approved person, he has failed to comply with a statement of principle issued under section 64 of the Act or has been knowingly concerned in a contravention by the relevant authorised person or a requirement imposed on that authorised person by or under the Act.

Statements of Principle and Code of Conduct for Approved Persons

1.4. The Statements of Principle and Code of Conduct for Approved Persons ("APER") sets out the fundamental obligations of approved persons and also conduct which, in the opinion of the FSA, constitutes a failure to comply with a particular Statement of Principle. It also describes factors which the FSA will take into account in determining whether an approved person's behaviour complies with it.

1.5. APER 3.1.3G states that, when establishing compliance with, or a breach of, a Statement of Principle, account will be taken of the context in which a course of conduct was undertaken, the precise circumstances of the individual case, the characteristics of the particular controlled function and the behaviour expected in that function.

1.6. APER 3.1.4G states that an approved person will only be in breach of a Statement of Principle when he is personally culpably. Personal culpability arises where an approved person's conduct was deliberate or where the approved person's standard of conduct was below that which would be reasonable in all circumstances.

Statement of Principle 7

1.7. Statement of Principle 7 is set out in APER 2.1.2P and requires that an approved person performing a significant influence function must take reasonable steps to ensure that the business of the firm for which he is responsible in his controlled function complies with the relevant requirements and standards of the regulatory system.

1.8. APER 3.3.1E provides that in determining whether or not the conduct of an approved person performing a significant influence function complies with Statements of Principle 5 to 7, the following are factors which, in the opinion of the FSA, are to be taken into account:

(1) whether he exercised reasonable care when considering the information available to him;

(2) whether he reached a reasonable conclusion which he acted on;

(3) the nature, scale and complexity of the firm's business;

(4) his role and responsibility as an approved person performing a significant influence function;

(5) the knowledge he had, or should have had, of regulatory concerns, if any, arising in the business under his control.

1.9. APER 4.7.2E to 4.7.10E provides examples of the types of behaviour that, in the opinion of the FSA, do not comply with Statement of Principle 7. These include:

(1) failing to take reasonable steps to implement (either personally or through a compliance department or other departments) adequate and appropriate systems of control to comply with the relevant standards of the regulatory system in respect of its regulated activities (APER 4.7.3E);

(2) failing to take reasonable steps to monitor (either personally or through a compliance department or other departments) compliance with the relevant requirements and standards of the regulatory system in respect of its regulated activities (APER 4.7.4E);

(3) failing to take reasonable steps adequately to inform himself about the reason why significant breaches (whether suspected or actual) of the relevant requirements and standards of the regulatory system in respect of its regulated activities may have arisen (APER 4.7.5E); and

(4) failing to take reasonable steps to ensure that procedures and systems of control are reviewed and, if appropriate, improved, following the identification of significant breaches (whether suspected or actual) of the relevant requirements and standards of the regulatory system relating to its regulated activities (APER 4.7.7E). APER 4.7.8E(2) sets out that this includes unreasonably failing to implement recommendations for improvements to systems and procedures in a timely manner.

1.10. APER 4.7.11 G provides that the FSA expects an approved person performing a significant influence function to take reasonable steps both to ensure his firm's compliance with the relevant requirements and standards of the regulatory system and to ensure that all staff are aware of the need for compliance.

1.11. APER 4.7.14G sets out that where independent reviews of systems and procedures have been undertaken and result in recommendation for improvement, the approved person performing a significant influence function should ensure that, unless there are hgood reasons not to, any reasonable recommendations are implemented in a timely manner.

1.12. The FSA's approach to taking disciplinary action is set out in Chapter 2 of the Enforcement Guide ("EG"). In deciding to take the proposed action the FSA has also had regard to the appropriate provisions of the Enforcement Manual ("ENF") which was in force until 27 August 2007, and therefore during part of the relevant period. Imposing financial penalties and public censures shows that the FSA is upholding regulatory standards and helps to maintain market confidence, promote public awareness of regulatory standards and deter financial crime. An increased public awareness of regulatory standards also contributes to the protection of consumers.

FSA's policy on financial penalties

1.13. The following are the provisions of DEPP which were applicable to misconduct during the relevant period. Revised provisions of DEPP came into force on 6 March 2010 for misconduct after 6 March 2010.

1.14. 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 set 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:

(1) The nature, seriousness and impact of the suspected breach (DEPP 6.2.1G(1)).

(2) The conduct of the person after the breach (DEPP 6.2.1G(2)).

(3) The previous disciplinary record and compliance history of the person (DEPP 6.2.1G(3)).

(4) FSA guidance and other published materials (DEPP 6.2.1G(4)).

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

1.15. The FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty. DEPP 6.5.2G set out guidance on a non exhaustive list of factors that may be of relevance when determining the amount of a financial penalty.

1.16. Factors that may be relevant to determining the appropriate level of financial penalty for misconduct prior to 6 March 2010 include:

(1) the need 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 (DEPP 6.5.2G(1));

(2) the nature, seriousness and impact of the breach in question, including the duration and frequency of the breach, whether the breach revealed serious or systemic weaknesses in the person's procedures or of the management systems or internal controls relating to all or part of a person's business, and the loss or risk of loss caused to consumers (DEPP 6.5.2G(2));

(3) the extent to which the breach was deliberate or reckless (DEPP 6.5.2G(3));

(4) whether the person on whom the penalty is to be imposed is an individual (DEPP 6.5.2G(4));

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

(6) the amount of benefit gained or loss avoided (DEPP 6.5.2G(6));

(7) conduct following the breach (DEPP 6.5.2G(8));

(8) the general compliance history of the person, including whether the FSA has previously brought to the person's attention, issues similar or related to the conduct that constitutes the breach in respect of which the penalty is imposed (DEPP 6.5.2G(9)(d)); and

(9) other action taken by the FSA in relation to similar breaches by other persons (DEPP 6.5.2G(10)).