
FINAL NOTICE

To: Interdependence Limited

**Of: AMC House
Chantry Street
Andover
Hampshire
SP10 1DE**

Date: 8 June 2004

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") proposes to take the following action

THE PENALTY

1. The FSA gave you a decision notice on 24 May 2004 which notified you that, pursuant to Section 206 of the Financial Services and Markets Act ("the Act") the FSA had decided to impose a financial penalty of £125,000 on Interdependence Limited ("Interdependence") in respect of breaches of the following Rules and Principles:
 - 1.1. until 1 December 2001 ("N2"), Personal Investment Authority ("PIA") Rules 5.1.1, 5.1.2, 5.1.7, 7.1.2, 7.1.4, 7.1.5 and 7.2 and the Securities and Investments Board ("SIB") Principle 9; and
 - 1.2. from N2, Rule 3.1.1 in the part of the FSA's Handbook titled Senior Management arrangements, Systems and Controls ("SYSC"), Rule 5.3.21 in the part of the FSA's Handbook titled Conduct of Business ("COB") and Principle 3 of the FSA's Principles for Businesses ("FSA Principles").

2. Interdependence has confirmed that it will not be referring the matter to the Financial Services and Markets Tribunal.
3. Accordingly, for the reasons listed below and having agreed with Interdependence the facts and matters relied upon, the FSA imposes a financial penalty of £125,000 on Interdependence ("the Penalty").

RELEVANT STATUTORY PROVISIONS AND REGULATORY RULES

4. 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 amount as it considers appropriate."

5. Section 39(3) of the Act provides:

"The principal of an Appointed Representative is responsible, to the same extent as if he had expressly permitted it, for anything done or omitted by the representative in carrying on the business for which he has accepted responsibility."

6. The Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc) (No.2) Order 2001) provides, at Article 8(2), that the power conferred by Section 206 of the Act can be exercised by the FSA in respect of failures to comply with any of the provisions specified in Rules 1.3.1(6) of the PIA Rules as if the firm had contravened a requirement imposed by the Act.
7. PIA Rule 1.3.1(6) provided that a PIA Member which failed to comply with, inter alia, the PIA Rules or any of the SIB Principles was liable to disciplinary action.
8. PIA Rule 1.3.9 provided that a PIA Member had to accept responsibility, to the same extent as if that Member had authorised it, for things said, written, done and omitted by its employees or Appointed Representatives.
9. PIA Rule 5.1.1 provided that a PIA Member must keep sufficient records to show that it had complied with its obligations in the PIA's Rule Book.
10. PIA Rule 5.1.2 provided that a PIA Member must ensure that its Appointed Representatives kept sufficient records to show that the Appointed Representatives had complied with their obligations in the PIA's Rule Book.
11. PIA Rule 5.1.7 provided that a PIA Member must retain the records required by the Rules for six years after the time of the record being made.
12. PIA Rule 7.1.2 provided that a PIA Member must establish training and competence procedures to ensure its Appointed Representatives carried out their functions in such a way as to enable the Member to comply with the PIA Rules.
13. PIA Rule 7.1.4 provided that a PIA Member must ensure that it has sufficient resources to monitor and enforce compliance with the PIA Rules by its Appointed Representatives.

14. PIA Rule 7.1.5 provided that a PIA Member must establish and maintain a system of internal control appropriate to its size and type of business.
15. PIA Rule 7.2 provided that a PIA Member must monitor the conduct of its Appointed Representatives adequately to ensure compliance with PIA Rules.
16. The SIB Principles are universal statements of standards expected of firms. They were issued by SIB and applied to PIA Members.
17. SIB Principle 9 provided that a firm should organise and control its internal affairs in a responsible manner, keeping proper records and, where the firm is responsible for the conduct of investment business by others, should have adequate arrangements to ensure that they are suitable, adequately trained and properly supervised and that it has well-defined compliance procedures.
18. SYSC Rule 3.1.1 provides that a firm must take reasonable care to establish and maintain such systems and controls as are appropriate to its business.
19. COB Rule 5.3.21 provides that, where recommendations are made about pensions transfers or opt-outs by an individual who is not one of a firm's pension transfer specialists, the firm must establish procedures for checking (among other things) that individual's compliance with the firm's procedures and the suitability of the recommendation.
20. The FSA Principles are set out in the part of the FSA's Handbook titled Principles for Businesses. They are a general statement of the fundamental obligations of authorised persons 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.
21. 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.

REASONS FOR ACTION

22. Summary

23. The FSA has decided to impose a financial penalty on Interdependence in respect of breaches of the PIA Rules and SIB Principles and the FSA Rules and Principles identified in paragraphs 1.1 and 1.2 that occurred between 1999 and March 2002 ("the period in issue") and arose in respect of the following failures on the part of Interdependence:
 - 23.1. failure adequately to monitor and control its Appointed Representatives in relation to the sale of pension fund withdrawal ("PFW") business; and
 - 23.2. failure to keep adequate records in relation to that business.
24. Interdependence's failings are particularly serious as they potentially affected the pension assets of customers who were approaching retirement. Such customers are vulnerable because they do not have sufficient time to make up any shortfalls caused by any mis-selling of PFW contracts. Early vesting can have seriously detrimental consequences for over 50's as their retirement income can be substantially reduced because underlying

investment funds have less time to grow with the risk that resultant annuity rates may be materially lower than they could be at normal retirement.

25. Interdependence's failings were made all the more serious by the following factors:

25.1.the failings represented a material breach of Interdependence's fundamental obligation under the regulatory system. That is that, as the operator of a network of Independent Financial Advisers ("IFAs") who are its Appointed Representatives, Interdependence undertakes compliance responsibility for all parts of their businesses, including ensuring that they comply with all relevant regulatory requirements. By failing to monitor its Appointed Representatives adequately in relation to PFW business, Interdependence exposed several hundred potentially vulnerable consumers to significant risk of loss;

25.2.the failings occurred after and notwithstanding that previous disciplinary action had been taken against Interdependence in November 1998 in respect of issues which, although not directly concerned with PFW business, did arise out of material failings in the control of its Appointed Representatives and also notwithstanding that problems with its system for ensuring appropriate supervision of PFW business by technical specialists were first identified in May 1999;

25.3.the failings occurred notwithstanding that detailed regulatory guidance had only recently been re-issued to the industry in the form of PIA Regulatory Update 67 as to how the requirements of the SIB Principles should be met in the context of PFW business; and

25.4.the failings did not represent isolated incidents but continued over a lengthy period of time and went to the heart of Interdependence's Appointed Representatives' PFW sales process.

26. Interdependence's failings therefore merit a significant penalty. In fixing the amount of the proposed penalty, however, the FSA recognises the steps which Interdependence has taken to improve the operation of its PFW business. The FSA also notes that Interdependence is undertaking a past business review which will identify and compensate those customers who may have been affected by its failings.

27. Whilst recognising these matters, the FSA nevertheless notes, that although Interdependence had begun its own investigations into the failings, these failings had not been notified to the FSA by the time the information came to the FSA's attention.

BACKGROUND

28. Interdependence is an intermediary which operates a network of IFAs, all of whom are its Appointed Representatives. On its incorporation in October 1991 Interdependence became a member of the Financial Intermediaries, Managers and Brokers Regulatory Association. On 7 April 1994, Interdependence became regulated by PIA and from N2 has been authorised by the FSA.

29. During the period in issue approximately half of Interdependence's Appointed Representatives were involved in writing PFW contracts (although most Appointed Representatives wrote only very small numbers of PFW contracts). Such contracts

permitted the pension holder to withdraw up to 25% of his pension fund as a cash sum while deferring the purchase of an annuity.

30. In response to PIA guidance and with a view to complying with the SIB Principles, Interdependence had decided in 1996 that in future the writing of PFW business and other pension transfers needed to be overseen by those with specialist technical knowledge and training ("pensions specialists"). Interdependence had set out to establish a system whereby its Appointed Representatives who were not pensions specialists submitted their proposed PFW business for approval on a case-by-case basis to its pensions specialists in advance of each transaction being completed ("the pre-approval system").

CONTRAVENTION OF RELEVANT REGULATORY REQUIREMENTS

31. The penalty is proposed to be imposed pursuant to Section 206 of the Act in respect of breaches of the PIA Rules and SIB Principles and the FSA Rules and Principles, details of which rules and breaches are set out below.

32. Failure adequately to monitor and control its Appointed Representatives

33. Interdependence was required to accept responsibility for the actions and communications of its Appointed Representatives under PIA Rule 1.3.9 and Section 39 of the Act. By virtue of PIA Rule 7.1.2, 7.1.4 and 7.2 and SIB Principle 9 until N2 and thereafter SYSC Rule 3.1.1, COB Rule 5.3.2.1 and FSA Principle 3, it was also required to establish compliance procedures and monitor their implementation so as to ensure that its Appointed Representatives carry out their business in a compliant manner.
34. With a view to complying with these requirements, from 1996 Interdependence introduced the pre-approval system, which was intended to provide a review of all aspects of each proposed transaction.
35. The pre-approval system did not operate properly or effectively. Until July 2000 that was because only basic details of proposed transactions were provided to Interdependence by its Appointed Representatives and reviews focused on the likely critical yield of the transaction. Between July 2000 and March 2002 that was because there was insufficient supervision of cases by Interdependence. There is no evidence that any action was taken during the period in issue to review the efficiency of the pre-approval system.
36. Although appointed representatives were required to submit their PFW cases to Interdependence for pre-approval, there was no means of ensuring that appointed representatives did actually submit their cases in this way or for recording cases which were not submitted. .
37. In 90% of all PFW cases during the period in issue there is no evidence of transactions which should have been submitted for pre-approval being submitted.
38. Further, in several of those cases where transactions were submitted for pre-approval and rejected as being unsuitable for PFW contracts, the Appointed Representative concerned simply ignored this decision and went ahead to write the business anyway. Interdependence failed to monitor the activities of its Appointed Representatives closely enough to detect that this was happening. Alternatively it failed to take sufficient steps to prevent it in a timely fashion.

39. Interdependence's Business Assessment Team ("BAT") failed to contribute to the monitoring of Appointed Representatives in that they made incorrect assessments of the risk posed by an individual Appointed Representative.
40. Interdependence's Professional Standards Visits Team ("PSV") also failed to contribute to the monitoring of Appointed Representatives as they were not effective in providing Interdependence's senior management with information about problem Appointed Representatives. In addition, some PSV visits did not pick up on key regulatory issues such as failure to comply with the pre-approval system.
41. The FSA therefore considers that Interdependence failed adequately to monitor and control its appointed representatives, in breach of the Rules and Principles listed in paragraph 33.

42. Failure to keep appropriate records

43. By virtue of PIA Rule 5.1.1, 5.1.2 and 5.17 and SIB Principle 9 until N2 and then SYSC Rule 3.1.1, COB Rule 5.3.2.1 and FSA Principle 3, Interdependence was required to keep sufficient records to demonstrate compliance by itself and its Appointed Representatives with the rules and guidance of PIA and the FSA, including the SIB Principles and then the FSA Principles.
44. Interdependence has no records to show that the majority of PFW cases handled by Appointed Representatives of Interdependence before March 2002 were reviewed prior to the business being written. In addition, inadequate records were kept of those PFW transactions which were reviewed by Interdependence and subsequently arranged.
45. There was widespread non-compliance by a number of Appointed Representatives engaged in writing PFW business with record-keeping requirements. For example, files kept by an individual Appointed Representative did not meet the requirements of PIA and FSA rules in that they did not contain a full record of all contact with the customer or retain documents for the required period.
46. No record was kept of those cases which were subject to the pre-approval regime until after October 2000. Even after the time, in or shortly after October 2000, when a manual record-keeping system was established, it was still inadequate and relied entirely upon Appointed Representatives submitting cases for approval and keeping appropriate records. There was no central system for ensuring that they did so.
47. Accordingly the FSA considers that records kept by Interdependence and individual Appointed Representatives in relation to PFW business were seriously flawed, in breach of the Rules and Principles listed in paragraph 43.

RELEVANT GUIDANCE ON SANCTIONS

48. The FSA's policy on the imposition of financial penalties is set out in Chapter 13 of the part of the FSA's Handbook titled the Enforcement Manual ("ENF"). The principal purpose of a financial penalty is to promote high standards of regulatory conduct 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.
49. In determining whether a financial penalty is appropriate, and, if so, its level, the FSA is required to consider all the relevant circumstances of the case. ENF 13.3.3 sets out the factors that may be of particular relevance in determining the level of a financial penalty. They are not exhaustive (ENF 13.3.4).
50. Article 8(4) of the Pre-N2 Misconduct Order provides that, where the FSA is considering the imposition of a financial penalty, it must have regard to:

"...any statement made by the relevant recognised self-regulating organisation...which was in force when the conduct in question took place with respect to its policy on the taking of disciplinary action and the imposition of, and amount of, penalties (whether issued as guidance, contained as rules of that organisation or otherwise)."

51. Relevant PIA guidance was contained in Annex D of "PIA's Approach to Discipline – Statement of Policy" (issued December 1995). In all material respects this guidance required consideration of the same factors as those identified in ENF 13. Further, this guidance made it clear that the criteria for determining the level of sanction were not to be applied rigidly. The FSA has taken this guidance into account in considering the appropriate sanction in this case.
52. The FSA considers the following factors (which are expressed in terms of both the FSA and the equivalent PIA guidance) to be particularly relevant in this case:

ENF 13.3.3(1): The seriousness of the misconduct or contravention

PIA Guidance : The seriousness of the breaches

53. The level of the financial penalty should be proportionate to the nature and seriousness of the contraventions. Those identified in this case were particularly serious for the reasons set out in paragraphs 24 and 25. They remain serious notwithstanding that they related to a relatively small part of the business of Interdependence's network.

ENF 13.3.3(2): the extent to which the contravention was deliberate or reckless

PIA Guidance: Whether the member deliberately or recklessly failed to meet PIA's requirements

54. There is no evidence that Interdependence's failings were deliberate or reckless. However, the FSA is concerned that no or insufficient action was taken by Interdependence to ensure that its control and monitoring of its Appointed Representatives were not appropriately tightened despite being on notice in the manner described in paragraphs 25.2 and 25.3.

ENF 13.3.3(3): the size, financial resources and other circumstances of the firm

PIA guidance: The member's ability to pay

55. Interdependence retains only a small percentage of its gross commission receipts, as the majority are distributed to members of its network. Nevertheless, there should be no doubt as to the ability of Interdependence to pay the proposed penalty.

ENF 13.3.3(4): The amount of profit accrued or loss avoided

PIA guidance: The extent to which, as a result of the breaches, the member gained benefit or avoided loss

56. There is no evidence that Interdependence gained any significant benefit from its failings.

ENF 13.3.3(5): Conduct following the contravention

PIA guidance: The firm's response once the breaches were identified

57. That there was a problem with the pre-approval system was first identified in May 1999 but Interdependence did not take sufficiently extensive remedial action to address the concerns raised by PIA and the FSA until March 2002.

ENF 13.3.3(6): Disciplinary record and compliance history

PIA guidance: The firm's regulatory history

58. Interdependence was fined £35,000 by PIA for rule breaches in the period from October 1997 and January 1999. Interdependence was also fined £175,000 by PIA in November 1998 for breaches in respect of its Pensions Review during 1997 which included similar control issues in respect of its Appointed Representatives.

ENF 13.3.3(7) Previous action taken by the FSA in relation to similar behaviour by other firms

PIA guidance: The way in which PIA has dealt with similar cases in the past

59. The FSA and PIA have previously taken action against firms (including Interdependence) for failing to supervise their Appointed Representatives and for record-keeping deficiencies and these cases have been taken into consideration to the extent relevant.

ENF 13.3.3(8): Action taken by other regulatory authorities

60. There has been no action taken by other regulatory bodies.

IMPORTANT NOTICES

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

Manner of Payment

The Penalty must be paid to the FSA in full.

If the Penalty is not paid

If the Penalty or any part of it remains outstanding after the date of agreed payment, the FSA may recover the outstanding amount as a debt owed by Interdependence and due to the FSA.

Publicity

Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matters to which this Notice relates. Under these provisions, the FSA must publish such information about the matters to which this notice relates as the FSA considers appropriate. The information may be published in such a 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 Interdependence or prejudicial to the interests of consumers.

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

FSA contacts

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

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