FINAL NOTICE

To: **Pi Financial Limited**

FSA Reference Number: **186419**

Date 18 September 2012

1. ACTION

1.1. For the reasons given in this notice, the FSA hereby imposes on Pi Financial Limited ("Pi") a financial penalty of £58,300 in respect of breaches of Principle 3 (Management and Control) and Principle 9 (Customers: Relationships of Trust) of the FSA's Principles for Businesses (the "Principles").

1.2. Pi agreed to settle at an early stage of the FSA's investigation and therefore qualified for a 30% (stage 1) discount under the FSA's executive settlement procedures. Were it not for this discount, the FSA would have imposed a financial penalty of £83,363 on Pi.

2. SUMMARY OF REASONS

2.1. On the basis of the facts and matters described below, the FSA considers that between 1 January 2009 and 3 February 2012 (the "Relevant Period") Pi failed to comply with Principles 3 and 9.

2.2. The FSA found that Pi failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, in breach of Principle 3. In particular, Pi failed to:

(1) implement adequate internal sales monitoring procedures across the Firm that ensured that advice was given in accordance with regulatory requirements;

(2) provide adequate training and supervision to its advisers; and

(3) establish and maintain adequate compliance and file checking arrangements, appropriate to the size and types of business conducted by Pi, particularly given the high risk products that Pi sold.

2.3. Further, the FSA found that Pi failed to take reasonable care to ensure the suitability of its advice to clients, in breach of Principle 9. The FSA has reviewed a sample of 28 files transacted during the Relevant Period involving high risk products and found that 14 of the files were unsuitable. In particular, the FSA found that:

(1) none of the files involving recommendations to invest in UCIS was suitable in light of the clients' attitude to risk ("ATR") and Pi failed to demonstrate that the clients in question fell within the relevant category of COBS 4.12;

(2) none of the files involving recommendations to invest in structured products was suitable, due to a mismatch between the product and the clients' ATR; and

(3) of the files involving recommendations to clients to switch their pensions, 24% were found to be unsuitable, due to the underlying investments being too high risk. There was no evidence on file to demonstrate that two of these unsuitable files were checked by a Pension Transfer Specialist as required in COBS 19.1.1R.

2.4. The FSA regards these failings as serious. During the Relevant Period, Pi promoted UCIS to 168 clients, who invested over £6 million, and promoted structured products to 362 clients, who invested nearly £20 million, either directly or indirectly through SIPPs. UCIS and structured products are high risk products, and customers investing in these products were at significant risk of losing some or all of their money.

2.5. In addition, whilst the focus of the FSA's investigation into the suitability of sales was on high risk products, the systems and compliance failings identified revealed systemic weaknesses across the Firm's systems and controls.

2.6. Pi's failings are aggravated by the fact that they occurred despite concerns being raised by the FSA during the Relevant Period in relation to the Firm's systems and controls and compliance and the engagement of a skilled person. Additionally, Pi's failings are further aggravated by the fact that extensive guidance was issued by the FSA during and prior to the Relevant Period, which set out the importance of ensuring product suitability in relation to UCIS, structured products and Pension Transfers and which called for network firms (of which Pi is one) to ensure that they had sufficient control over their Appointed Representatives ("AR"s).

2.7. However, Pi's failings are mitigated by the fact that it has taken a number of steps in response to the FSA's concerns during the Relevant Period, including various steps recommended by a skilled person. Whilst these steps did not resolve Pi's failings, the FSA recognises that Pi attempted to address its concerns. Further, since being referred to Enforcement, the Firm has voluntarily varied its Part IV Permission so that it is no longer authorised to arrange and promote UCIS. It has also undertaken to make improvements to training, establish 100% file checking for its high risk products and initiate a client contact exercise in relation to the past sales of high risk products.

2.8. This action supports the FSA's regulatory objectives of maintaining market confidence and the protection of consumers.

3. DEFINITIONS

3.1. The definitions below are used in this Final Notice:

"the Act" means the Financial Services and Markets Act 2000

"AR" means Appointed Representative

"ATR" means attitude to risk

"COBS" means the Conduct of Business Sourcebook within the FSA Handbook

"Compliance manual" means the in-house compliance manual used by Pi's sales and compliance staff during the Relevant Period

"the FSA" means the Financial Services Authority

"FSA Handbook" means the FSA Handbook of Rules and Guidance

"IFA" means Independent Financial Adviser

"KPI" means Key Performance Indicator

"MI" means Management Information

"PCIS Order" means the Promotion of Collective Investment Schemes (Exemptions) Order 2001

"pension switch" means a transfer from one pension fund to another. A Pension Transfer is a specific type of transfer (defined below)

"Pension Transfer" means a transaction resulting from the decision of a retail client who is an individual, to transfer deferred benefits from:

(a) an occupational pension scheme;

(b) an individual pension contract providing fixed or guaranteed benefits that replaced similar benefits under a defined benefits pension scheme; or

(c) in the cancellation rules (COBS 15) a stakeholder pension scheme or personal pension scheme,

to:

(d) a stakeholder pension scheme;

(e) a personal pension scheme; or

(f) a deferred annuity policy, where the eventual benefits depend on investment performance in the period up to the date when those benefits will come into payment

"Pension Transfer Specialist" means an individual appointed by a firm to check the suitability of a Pension Transfer or pension opt-out who has passed the required examinations as specified in the FSA's Training and Competence part of its Handbook

"Pi"/ "the Firm" means Pi Financial Limited

"Relevant Period" means 1 January 2009 to 3 February 2012

"SIPP" means self invested personal pension

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber)

"UCIS" means unauthorised collective investment scheme (as defined in Part XVII, Chapter 1 and II of the Act)

"VVOP" means voluntary variation of a Part IV Permission

4. FACTS AND MATTERS

Background

4.1. Pi is an IFA network firm based in Shrewsbury, with approximately 72 investment advisers and 16 ARs.

4.2. During the Relevant Period, Pi was the subject of two visits from FSA Supervision in August 2009 and April 2010. Both of these visits identified systems and control and compliance weaknesses. As a result of these weaknesses, a skilled person was appointed in July 2010 pursuant to section 166 of the Act to report on the quality of advice provided by Pi and the compliance monitoring framework in place.

4.3. Following the findings of two reports from the skilled person over two years, the FSA remained concerned about the suitability of the advice provided by Pi and the adequacy of its compliance function.

4.4. As part of its investigation, the FSA undertook a further review of Pi's systems and controls, along with a review of a sample of files involving recommendations of UCIS, structured products, and pension switch (including Pension Transfer) advice.

Systems and controls and compliance

Internal sales monitoring procedures

Product approval

4.5. Pi had a system in place under which those products categorised by Pi as higher risk, such as UCIS and structured products, had to be approved by the Firm before advisers could recommend them. Advisers referred products that they were interested in selling to a particular employee at Pi who was responsible for reviewing and researching the

referred product and deciding whether to approve it. This process, introduced in 2009 in response to the growth of alternative investments, was designed to ensure that products were properly researched and understood, and that advisers did not sell products which the Firm considered to be too risky.

4.6. The product approval process involved the relevant Pi employee preparing a factsheet summarising the product, highlighting the risks and assigning a risk rating. Initially, the factsheets were provided for adviser use only. Advisers would then have to sit an examination demonstrating that they had a good understanding of the product. From March 2011 advisers began providing copies of relevant factsheets to clients who were required to sign them.

4.7. The FSA found that Adviser A submitted a large volume of products for approval (106 over an 18 month period). The employee responsible for product approval reported to the Firm that he felt highly pressured by Adviser A because of the number of requests made under strict time constraints.

4.8. Similarly, the FSA found that the factsheet system used by the Firm did not operate effectively in practice. For each of the structured product or UCIS files reviewed by the FSA, for which there was a factsheet on the file, the product was categorised as high risk. However, at least two of Pi's advisers, referred to as Advisers A and B, recommended these products to clients with no more than a medium ATR, without clearly indicating that the product was high risk. Factsheets were not included in every file, and of those that were in the files, the majority reviewed by the FSA had not been signed. Accordingly, it was not clear whether the factsheet had been provided to the client. However, it is noted that the requirement for clients to be provided with a copy of the factsheet and to sign the same was not introduced until March 2011.

Sales monitoring

4.9. Pi collated KPIs for advisers within its network every three months. The KPIs were compiled using data from the new business register and from compliance file checks, and were designed to capture information across various business areas. The KPIs provide information as to the type of products sold and the providers used. The KPI reports also summarised each adviser's file checking results, including the number of documentation problems, "overall failures" (classified by Pi as multiple or serious documentation failures) and "unsuitable sales".

4.10. The FSA found that, in many cases, the KPIs produced during the Relevant Period were inaccurate. In 12 files, UCIS sales were categorised as ISAs or OEICs when they were in fact contained within the same. Further, 61 UCIS sales referred to in the New Business Register for Adviser B did not appear on his KPIs as they were referred to by their "wrapper". In this way, it was possible for advisers to provide incomplete product information on the form they submitted to the Firm, and it did not appear that there were systems or controls in place at the Firm to prevent this or to identify when it had happened. The identification of the "wrapper" rather than the underlying product meant that Pi did not have an immediate full and accurate picture of the volume of sales of high risk products conducted by Pi's advisers within its KPIs.

Training and supervision of advisers and staff

Guidance

4.11. Pi circulated technical and compliance bulletins to advisers on a regular basis. The compliance bulletins provided updates on FSA guidance and enforcement actions in relation to a range of products and business areas (including high risk products).

4.12. Pi also maintained a Compliance manual for use by advisers. This provided high level information on fact finding, suitability and product disclosure, as well as templates for use by advisers, such as suitability letter templates. The Compliance manual had a chapter dealing with "*specialist and/or high risk areas*", which stated that advisers selling these kinds of products needed to take particular care to ensure that they could demonstrate suitability for clients, "*as these areas are subject to increased regulatory scrutiny*".

4.13. However, whilst this chapter of the Compliance manual provided some guidance in respect of structured products, it made no reference to UCIS. This was despite the fact that Pi categorised UCIS as "*highly speculative*", fitting within its riskiest category of products, and through its compliance bulletins demonstrated awareness of FSA guidance on UCIS advice and of enforcement action against firms in respect of UCIS sales.

4.14. Pi's factsheets for structured products indicated that it regarded these as high risk. Pi was aware of the FSA's guidance (from October 2009) that careful consideration should be given to investing more than 25% of a client's assets into structured products, and placing more than 10% of a client's assets into a single structured product.

4.15. Further, Pi considered Pension Transfers and pension switches into SIPPs to be high risk areas of its business. During the Relevant Period, Pi's compliance bulletins made frequent reference to the FSA's announcements and action in relation to both pension switches, as a whole, and Pension Transfers.

Supervision of advisers

4.16. During the Relevant Period, one to one meetings between advisers and senior managers of the Firm took place between two to four times per year. These meetings were used to review the advisers' KPI data and file checking record.

4.17. Two advisers at Pi, Advisers A and B, processed comparatively high sales volumes (close to three times as high as other advisers in the network) of structured products and UCIS. The Firm was aware of this.

4.18. Adviser A, who sold a large volume of structured products throughout the Relevant Period, did not consider some of the structured products that he recommended were high risk investments. Adviser B, who sold a large volume of UCIS throughout the Relevant Period, did not agree with the Firm's categorisation of all UCIS as high risk products.

4.19. Further, although Pi was aware of documentation failings on the part of Advisers A and B, such as missing information on the file and poorly drafted suitability letters, it

did not take sufficient steps to resolve these issues. Both Advisers A and B relied on their administrative staff to draft suitability reports, and Adviser A admitted during interview that he did not read through or check all sections of his suitability reports before they were sent out to clients.

4.20. Advisers A and B had regular one to one meetings during the Relevant Period although their meetings were poorly documented.

Compliance and file checking

4.21. During the Relevant Period, Pi's compliance function initially included two file checkers. From 2011 this was increased to three. Pi largely conducted post-sale file checks across all areas of the Firm's business. Members of the compliance function used checklists, aide memoires and FSA templates to record their file review findings.

4.22. On joining Pi, file checkers went through an initial period in which a senior member of the compliance function would monitor their file checking closely. After this period, that senior member checked one file per month from each of the checkers, which was referred to as the "checking the checkers" system.

4.23. The FSA found that Pi's compliance function lacked sufficient compliance experience and was not closely supervised or monitored once initial training was complete. The number of file checkers within the compliance function (at most four) relative to the number of advisers (approximately 72) was low, particularly given that one file checker worked exclusively for Adviser A. The FSA also considers that this file checker may not have been sufficiently independent of Adviser A to perform his role properly, given that he was a former client of Adviser A and that Adviser A was involved in his recruitment.

4.24. The Firm's checking the checkers system involved a senior member of staff double-checking one file reviewed by each checker per month, but this system was weak.

4.25. Of the unsuitable sales identified by the FSA, half had been reviewed by Pi's compliance function who had concluded that all but one file was suitable, and one file was unclear. The FSA found that all of the compliance review documents it considered (with the possible exception of the file that was judged 'unclear') demonstrated minimal evidence of analysis or consideration on the part of the file checker, and in some files, had not been completed accurately.

4.26. Although Pi assessed some files to be initially unclear (usually due to missing documentation on the file), once sufficient documents were produced, it would normally re-grade these as suitable. When interviewed by the FSA, one of its members could only recall having reviewed two unsuitable files, with the others recalling none. The KPIs for Adviser A and B showed that neither had any unsuitable sales in the two year period from 1 January 2010 to 31 December 2011, and only one (for Adviser A) and two (for Adviser B) "overall failures" (failures relating to documentation problems). The KPIs for four other advisers reviewed by the FSA also showed no unsuitable sales and no more than one overall failure over this same two year period. Members of the compliance function were also unclear on the process that would apply if they were to find advice to be unsuitable.

4.27. Although Pi intended file checking to be undertaken shortly after advice was given, there was a serious backlog in file checking in 2010 and 2011. In April 2011, the backlog of files to check stood at 215, and included files dating from as far back as January 2010. Some of the backlog related to files of Adviser A. This delay made it difficult for Pi to resolve any issues that had arisen with the files.

Sales of high risk products

4.28. During 2008, advisers in the Pi network began to recommend different types of products to their clients, in search of better rates of return following the market downturn. In particular, Advisers A and B began to recommend increased numbers of structured products and UCIS to their clients. This advice usually entailed advising the client to move their existing pension funds into a SIPP.

4.29. The FSA reviewed 28 files involving UCIS, structured products and pension switch advice. It found that half of those sales were unsuitable. The FSA found the following common problems across many of the unsuitable sales:

(1) although Pi categorised structured products and UCIS as high risk products, advisers recommended these products to clients with a moderate ATR. For example, Client A who was described as being prepared to take a moderate level of risk, was advised to move all of his pension funds (other than those held in a final salary scheme) amounting to £88,000 into a SIPP, and place £51,000 of this into a UCIS and £34,000 into a structured product;

(2) the recommendations often meant that clients had a significant level of exposure to high risk products in their investment portfolio and in particular in their SIPP portfolio. For example, Client B was advised to invest 93% of his SIPP funds into structured products, with the effect that 54% of his total investment portfolio was invested into structured products; and

(3) several of the clients appeared to have low incomes, limited assets and limited capacity for loss. For example, Client C, who had an annual income of £18,500 and two dependant children, and no significant assets other than his home, was advised to transfer his entire pension fund of £78,000 into one UCIS.

4.30. As discussed above, the FSA's file review found that Pi's compliance function failed to identify the unsuitable files.

UCIS sales

4.31. Seven of the files reviewed by the FSA involved the recommendation of a UCIS product. Adviser B was the adviser in relation to four of these recommendations.

4.32. Section 238(1) of the Act prohibits the promotion of UCIS by authorised firms, other than in circumstances where there is an exemption to section 238(1) provided in the PCIS Order or COBS 4.12, for example by ensuring the client is certified as a sophisticated investor or high net worth individual. The FSA found that Pi had not demonstrated a valid UCIS exemption in any of the UCIS files reviewed. In three of the UCIS files, there was no evidence at all that an exemption had been considered;

while there were certificates on the file for the remaining four UCIS files, these did not meet the requirements under the PCIS Order or COBS 4.12.

4.33. Even taking aside the exemption point, the UCIS recommendations reviewed were not suitable for the clients. Although Pi regarded UCIS generally as high risk products, none of the clients concerned had a high ATR; their ATRs ranged from cautious to moderately speculative. In addition, three of the clients had received recommendations to invest a substantial part of their SIPP into a single UCIS, thereby exposing their pension funds to a significant risk of loss.

Structured products

4.34. Five of the files reviewed by the FSA involved the sale of structured products. In each case, the recommendations made were unsuitable. The key concern was that the client's ATR (ranging from 'medium' to 'moderately adventurous') did not match the risk profile of the products (which had been assessed by Pi to be high risk).

4.35. This was exacerbated by the fact that three of these clients also had a high level of exposure to structured products as part of their investment portfolio – ranging from 32% to 54%. In each of the structured product files, the structured products were held within a SIPP. Three clients were advised to invest over 90% of their SIPP funds into structured products.

Pension advice

4.36. Although the Firm was aware that the FSA requires that Pension Transfers must be approved by a qualified Pension Transfer Specialist, in two of the Pension Transfers conducted during the Relevant Period, the FSA found that there was no evidence on file that they had been checked by a Pension Transfer Specialist as required by COBS 19.1.1R.

4.37. The FSA reviewed 17 files involving pension switch advice (two of which were also reviewed for the UCIS recommendation made at the same time). Four of these files were found to be unsuitable: two files were Pension Transfers, and two files involved pension switches into SIPPs. Issues identified in relation to the unsuitable files include the following:

(1) two clients were advised to move out of pension schemes providing guaranteed benefits into SIPP schemes, without being warned of the disadvantages of this course, and the difficulty of matching the guaranteed rate without taking substantial investment risks. Client A (a pension switch into a SIPP) had to incur a substantial transfer penalty as a result of the transfer advised by Pi, and the justification provided for this by the adviser was inadequate. Client C, a Pension Transfer case, was advised to move his funds out of a defined benefit scheme in circumstances where the new scheme would need to generate growth of 8% per annum to match the benefits of the defined benefit scheme; and

(2) a further two clients (one a Pension Transfer, and one a pension switch into a SIPP) were advised to move their pension funds into a SIPP and then to invest these funds into investments that were too high risk in light of their recorded ATR.

Documentation failings

4.38. Ten of the files reviewed had poor documentation, which would make it difficult for Pi to establish that they were suitable. In particular, the FSA found that:

(1) fact find documents were confusing: they were often updated with undated handwritten amendments, so it was not clear what the client's position was at the time of the advice and they contained insufficient detail about the client's financial position;

(2) suitability letters contained largely generic product information and little analysis of why the product was suitable for the client; they did not always make clear the risks involved in investing in the product or that the product was regarded by Pi as high risk; and did not set out the level of commission payable to Pi in all cases, so it is not clear that clients were aware of this; and

(3) key aspects of the advice were in file notes (some undated) rather than in the suitability letter; it is not clear whether these file notes were made contemporaneously and whether or not they were provided to the client.

5. FAILINGS

5.1. The regulatory provisions relevant to this Final Notice are referred to in Annex 1.

Breach of Principle 3

5.2. On the basis of the facts and matters above, the FSA considers that Pi failed to:

(1) Implement adequate internal sales monitoring procedures across the Firm that ensured that advice was given in accordance with regulatory requirements: Pi's product approval process was inadequate, as the employee responsible for approving products felt under time-pressure from advisers to approve products. The factsheet system used by the Firm did not work effectively in practice, as, contrary to the guidance provided in the factsheets, Advisers A and B recommended products to clients which exceeded their ATR. Further, the sales monitoring information generated by Pi, in the form of KPIs, was often inadequate and did not evidence the volumes of high risk sales being conducted by its advisers or that it was able to deal appropriately with the risks associated with high risk products. The result of these failings was that Pi's product sales were not being monitored effectively, which was a systemic problem at Pi;

(2) provide adequate training and supervision to its advisers: Guidance provided by Pi, in relation to UCIS was inadequate. Even where Pi's guidance was adequate (parts of the Compliance manual, and compliance bulletins) the FSA considers that Pi did not take reasonable care to ensure that its advisers followed its guidance, especially in relation to higher risk products. Moreover, despite being aware that Advisers A and B conducted a high volume of sales of high risk products, did not agree with Pi's guidance on UCIS and structured products and were prone to documentation failings, Pi failed to take sufficient steps to monitor and supervise their activity; and

(3) establish and maintain adequate compliance and file checking arrangements across all areas of its business, appropriate to the size of Pi and the high risk products that it sold: members of Pi's compliance function lacked experience and were not supervised adequately. The reviews conducted by members of Pi's compliance function demonstrated minimal analysis and failed to assess the suitability of the advice provided. The file-checking process at Pi was unclear and resulted in failures to identify unsuitable advice which is demonstrated by the fact that Pi regarded most of the files identified by the FSA as unsuitable, to be suitable. The result was that Pi's compliance function failed to detect and take appropriate action in relation to unsuitable advice.

5.3. The FSA considers that Pi's systems and controls were inadequate for a firm of its size and taking into account the high risk products that it sold. Further, Pi's compliance function failed to detect and take appropriate action on unsuitable advice and was inadequate to meet the needs of the business. The FSA considers that these failings were systemic.

5.4. As a result of these failings, the FSA considers that Pi has failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, in breach of Principle 3.

Breach of Principle 9

5.5. 14 of the 28 files reviewed by the FSA in relation to high risk products were found to be unsuitable. In particular:

(1) seven files involving recommendations to invest in UCIS were all found to be unsuitable. The FSA found that in these files, Pi had failed to provide documents demonstrating that valid exemptions applied. Pi had also failed to ensure that the advice was suitable in light of each client's ATR;

(2) five files involving recommendations to invest in structured products were all found to be unsuitable, due to a mismatch between the product and each client's ATR; and

(3) four pension switch files (two involving a pension switch into a SIPP, and two Pension Transfers) were found to be unsuitable, and there was no evidence on file that the two Pension Transfers had been checked by a Pension Transfer Specialist as required by COBS 19.1.1R.

5.6. The high number of unsuitable files identified by the FSA demonstrates that Pi failed to take reasonable care to ensure the suitability of its advice and discretionary decisions for clients who were entitled to rely upon its judgment, in breach of Principle 9.

6. SANCTION

Financial penalty

6.1. The FSA's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In respect of conduct occurring on or after 6 March 2010, the FSA applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets

out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

6.2. Although Pi's misconduct straddles both the penalty regime prior to 6 March 2010 and the new penalty framework in place after 6 March 2010, the FSA considers that the gravamen of Pi's misconduct falls within the period following 6 March 2010. This is because the majority of the misconduct fell during this period of time and, further, the FSA considers Pi's misconduct to be more serious following 6 March 2010, as it was during this period that Pi's unsuitable advice in relation to higher risk products specifically came to light.

Step 1: disgorgement

6.3. Pursuant to DEPP 6.5A.1G, at Step 1 the FSA seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this.

6.4. The FSA has not identified any financial benefit that Pi derived directly from its breach. Step 1 is therefore £0.

Step 2: the seriousness of the breach

6.5. Pursuant to DEPP 6.5A.2G, at Step 2 the FSA determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.

6.6. The FSA considers that the total revenue generated by Pi during the period of the breaches is indicative of the potential harm caused by its breaches. The FSA has therefore determined a figure based on a percentage of Pi's relevant revenue. The period of Pi's breaches was from 1 January 2009 to 3 February 2012. The FSA considers Pi's relevant revenue for this period to be £833,626.

6.7. In deciding on the percentage of the relevant revenue that forms the basis of the step 2 figure, the FSA considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:

Level 1 – 0%

Level 2 – 5%

Level 3 – 10%

Level 4 – 15%

Level 5 – 20%.

6.8. In assessing the seriousness level, the FSA takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately

or recklessly. DEPP 6.5A.2G (11) lists factors likely to be considered 'level 4 or 5 factors'. Of these, the FSA considers the following factors to be relevant:

(1) there is a significant risk of consumer detriment due to the high risk nature of the products that Pi sold; and

(2) the breaches revealed systemic weakness in the Firm's systems and controls.

6.9. DEPP 6.5A.2 (12) lists factors likely to be considered 'level 1, 2 or 3 factors'. Of these, the FSA considers the following factors to be relevant:

(1) there is no evidence that Pi's misconduct was deliberate – the breaches appear to have been committed negligently or inadvertently; and

(2) no crystallised client detriment has yet been identified that follows from the unsuitable advice.

6.10. The FSA also considers that whilst there is a risk of client detriment in all areas of the Firm's business, due to the systemic weaknesses identified in its systems and controls and compliance, it acknowledges that it has only obtained evidence of unsuitable advice given in relation to high risk products, as this was the focus of its investigation, and this constitutes a relatively small part of the Firm's overall business.

6.11. Taking all of these factors into account, the FSA considers the seriousness of the breach to be level 3 and so the Step 2 figure is 10% of £833,626.

6.12. Step 2 is therefore £83,363.

Step 3: mitigating and aggravating factors

6.13. Pursuant to DEPP 6.5A.3G, at Step 3 the FSA may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.

6.14. The FSA considers that the following factors aggravate the breach:

(1) the failings occurred despite the concerns raised by the FSA during the Relevant Period in relation to the Firm's systems and controls and compliance, and despite the engagement of a skilled person; and

(2) the FSA issued extensive guidance during and prior to the Relevant Period, which set out the importance of ensuring product suitability in relation to UCIS, structured products and pension switches and which called for network firms, like Pi, to ensure that they had sufficient control over their ARs.

6.15. The FSA considers that the following factors mitigate the breach:

(1) the Firm took certain steps in response to the FSA's concerns during the Relevant Period, such as engaging a skilled person to produce two reports, altering the management structure at Pi by employing further personnel to perform controlled functions, employing further file checkers and holding

more meetings of senior management than previously. Whilst the FSA's view is that these steps were not adequate to resolve Pi's failings, it considers that these steps to improve the systems and controls and compliance function at Pi should be credited; and

(2) since being referred to Enforcement, the Firm has voluntarily varied its Part IV Permission so that it is no longer authorised to arrange and promote UCIS. It has also undertaken to make improvements to training, establish 100% file checking for its high risk products and initiate a client contact exercise in relation to the past sales of high risk products.

6.16. Having taken these aggravating and mitigating factors into account, the FSA considers that the aggravating and mitigating factors balance each other out and no reduction or increase should be made for mitigation or aggravation respectively. The Step 2 figure should remain therefore at £83,363.

6.17. Step 3 is therefore £83,363.

Step 4: adjustment for deterrence

6.18. Pursuant to DEPP 6.5A.4G, if the FSA considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the breach, or others, from committing further or similar breaches, then the FSA may increase the penalty.

6.19. The FSA considers that the Step 3 figure of £83,363 represents a sufficient deterrent to Pi and others, and so has not increased the penalty at Step 4.

6.20. The figure at Step 4 remains £83,363.

Step 5: settlement discount

6.21. Pursuant to DEPP 6.5A.5G, if the FSA and the firm on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the FSA and the firm reached agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

6.22. The FSA and Pi reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure.

6.23. The figure at Step 5 is therefore £58,354. After being rounded to the lowest hundred, this figure is £58,300.

Penalty

6.24. The FSA therefore has decided to impose a total financial penalty of £58,300 on Pi for breaching Principles 3 and 9.

7. PROCEDURAL MATTERS

Decision maker

7.1. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.

7.2. This Final Notice is given under and in accordance with section 390 of the Act.

Manner of and time for payment

7.3. The financial penalty must be paid in full by Pi to the FSA no later than 2 October 2012, 14 days from the date of the Final Notice.

If the financial penalty is not paid

7.4. If all or any of the financial penalty is outstanding on 3 October 2012, the FSA may recover the outstanding amount as a debt owed by Pi and due to the FSA.

Publicity

7.5. 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

7.6. For more information concerning this matter generally, contact Anthony Monaghan at the FSA (direct line: 020 7066 6772 /fax: 020 7066 6773).

Georgina Philippou

Head of Department
FSA Enforcement and Financial Crime Division

Annex 1

RELEVANT STATUTORY PROVISIONS, REGULATORY REQUIREMENTS AND FSA GUIDANCE

1. Statutory Provisions

1.1. The FSA's statutory objectives, set out in section 2(2) of the Act, are market confidence, financial stability, consumer protection and the reduction of financial crime.

1.2. 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 amount as it considers appropriate".

1.3. Pi 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 rules and made under section 138 of the Act.

1.4. Section 238 of the Act sets out the restrictions in place in relation to the promotion of collective investment schemes. This section provides:

(1) An authorised person must not communicate an invitation or inducement to participate in a collective investment scheme.

(2) But that is subject to the following provisions of this section and to section 239.

(3) Subsection (1) applies in the case of a communication originating outside the United Kingdom only if the communication is capable of having an effect in the United Kingdom.

(4) Subsection (1) does not apply in relation to—

(a) an authorised unit trust scheme;

(b) a scheme constituted by an authorised open-ended investment company; or

(c) a recognised scheme.

(5) Subsection (1) does not apply to anything done in accordance with rules made by the Authority for the purpose of exempting from that subsection the promotion otherwise than to the general public of schemes of specified descriptions.

(6) The Treasury may by order specify circumstances in which subsection (1) does not apply.

(7) An order under subsection (6) may, in particular, provide that subsection (1) does not apply in relation to communications—

(a) of a specified description;

(b) originating in a specified country or territory outside the United Kingdom;

(c) originating in a country or territory which falls within a specified description of country or territory outside the United Kingdom; or

(d) originating outside the United Kingdom.

(8) The Treasury may by order repeal subsection (3).

(9) "Communicate" includes causing a communication to be made.

(10) "Promotion otherwise than to the general public" includes promotion in a way designed to reduce, so far as possible, the risk of participation by persons for whom participation would be unsuitable.

(11) "Participate", in relation to a collective investment scheme, means become a participant (within the meaning given by section 235(2)) in the scheme.

2. Regulatory Provisions

2.1. In exercising its power to issue a financial penalty, the FSA must have regard to the relevant provisions in the FSA Handbook.

2.2. In deciding on the action, the FSA has also had regard to guidance set out the in the Regulatory Guides, in particular the Decision Procedure and Penalties Manual (DEPP).

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

Principle 3 provides:

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

Principle 9 provides:

"A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment."

2.4. The FSA's Conduct of Business Sourcebook (COBS) applied to authorised firms with effect from 1 November 2007.

2.5. Chapter 4 of COBS sets out the FSA's rules governing communicating with clients including those relating to financial promotions.

2.6. COBS 4.12.1R provides:

(1) A firm may communicate an invitation or inducement to participate in an unregulated collective investment scheme without breaching the restriction on promotion in section 238 of the Act if the promotion falls within an exemption in the table in (4), as explained further in the Notes.

(2) Where the left-hand column in the table in (4) refers to promotion to a category of person, this means that the invitation or inducement:

(a) is made only to recipients who the firm has taken reasonable steps to establish are persons in that category; or

(b) is directed at recipients in a way that may reasonably be regarded as designed to reduce, so far as possible, the risk of participation in the collective investment scheme by persons who are not in that category.

(3) A firm may rely on more than one exemption in relation to the same invitation or inducement.

(4)

Promotion to:	Promotion of an unregulated collective investment scheme which is:
Category 1 person *(1) a person who is already a participant in an unregulated collective investment scheme; or* *(2) A person who has been, in the last 30 months, a participant in an unregulated collective investment scheme.*	*A. that collective investment scheme; or* *B. any other collective investment scheme whose underlying property and risk profile are both 'substantially similar' (see Note 1) to those of that collective investment scheme; or* *C. a collective investment scheme which is intended to absorb or take over the assets of that collective investment scheme; or* *D. a collective investment scheme, units in which are being offered by its operator as an alternative to cash on the liquidation of that collective investment scheme.*
Category 2 person *(1) A person:* *(a) for whom the firm has taken reasonable steps to ensure that investment in the collective investment scheme is suitable; and* *(b) who is an 'established' or 'newly accepted' client of the firm or of a person in the same group as the firm (see Notes 2 & 3).*	*That collective investment scheme*
Category 3 person *A person who is eligible to participate in a scheme constituted under:* *(1) the Church Funds Investment Measure 1958;* *(2) section 24 of the Charities Act 1993;; or* *(3) section 25 of the Charities Act (Northern Ireland) 1964.*	*Any such collective investment scheme*
Category 4 person *An eligible employee, that is, a person who is:* *(1) an officer;*	*1. A collective investment scheme the instrument constituting which:* *A. restricts the property of the scheme, apart*

Promotion to:	Promotion of an unregulated collective investment scheme which is:
(2) an employee; *(3) a former officer or employee; or* *(4) a member of the immediate family of any of (1) - (3),* *of an employer which is (or is in the same group as) the firm, or which has accepted responsibility for the activities of the firm in carrying out the designated investment business in question.*	*from cash and near cash, to:* *(1) (where the employer is a company) shares in and debentures of company or any other connected company (see Note 4);* *(2) (in any case), any property, provided that the scheme takes the form of:* *(i) a limited partnership, under the terms of which the employer (or connected company) will be the unlimited partner and the eligible employees will be some or all of the limited partners; or* *(ii) a trust which the firm reasonably believes not to contain any risk that any eligible employee may be liable to make any further payments (other than charges) for investment transactions earlier entered into, which the eligible employee was not aware of at the time he entered into them; and* *B. (in a case falling within A(1) above) restricts participation in the scheme to eligible employees, the employer and any connected company.* *2. Any collective investment scheme provided that the participation of eligible employees is to facilitate their co-investment:* *(i) with one or more companies in the same group as their employer (which may include the employer); or* *(ii) with one or more clients of such a company.*
Category 5 person *A person admitted to membership of the Society of Lloyd's or any person by law entitled or bound to administer his affairs.*	*A scheme in the form of a limited partnership which is established for the sole purpose of underwriting insurance business at Lloyd's.*
Category 6 person *An exempt person (other than a person exempted only by section 39 of the Act (Exemption of appointed representatives)) if the financial promotion relates to a regulated activity in respect of which the person is exempt from the general prohibition.*	*Any collective investment scheme.*
Category 7 person	*Any collective investment scheme in relation to*

Promotion to:	Promotion of an unregulated collective investment scheme which is:
An eligible counterparty or a professional client.	*which the client is categorised as a professional client or eligible counterparty (see Note 5).*
Category 8 person *A person:* *(1) in relation to whom the firm has undertaken an adequate assessment of his expertise, experience and knowledge and that assessment gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the person is capable of making his own investment decisions and understanding the risks involved;* *(2) to whom the firm has given a clear written warning that this will enable the firm to promote unregulated collective investment schemes to the client; and* *(3) who has stated in writing, in a document separate from the contract, that he is aware of the fact the firm can promote certain unregulated collective investment schemes to him.*	*Any collective investment scheme covered by the assessment.*

The following Notes explain certain words and phrases used in the table above.		
Note 1	*The property of a collective investment scheme is 'substantially similar' to that of another collective investment scheme if in both cases the objective is to invest in the same one of the following sectors:*	
	(a)	*on-exchange derivatives or warrants;*
	(b)	*on-exchange (or quoted) securities;*
	(c)	*the property market (whether in security of property companies or in property itself);*

	(d)	*collectable items of a particular description (such as works of art, antique vehicles, etc);*
	(e)	*artistic productions (such as films, television, opera, theatre or music);*
	(f)	*unlisted investments (including unlisted debt securities).*
The risk profile of a scheme will be substantially similar to that of another scheme only if there is such similarity in relation to both liquidity and volatility.		
Note 2	*A person is an 'established client' of another person if he has been and remains an actual client of that person in relation to designated investment business done with or through that other person.*	
Note 3	*A person is a 'newly accepted' client of a firm if:*	
	(a)	*a written agreement relating to designated investment business exists between the client and the firm (or, if the client is normally resident outside the United Kingdom, an oral or written agreement); and*
	(b)	*that agreement has been obtained without any contravention of section 238 or 240 of the Act, or of any rule in COBS applying to the firm or (as far as the firm is reasonably aware) any other authorised person.*
Note 4	*A company is 'connected' with another company if:*	
	(a)	*they are in the same group; or*
	(b)	*one company is entitled either alone or with another company in the same group, to exercise or control the exercise of a majority of the voting rights attributable to the share capital, which are exercisable in all circumstances at any general meeting of the other company or of its holding company.*
Note 5	*Firms may use the client categorisation regime that applies to business other than MiFID or equivalent third country business. [This is the case even if the firm will be within the scope of MiFID when it makes the promotion.]*	

2.7. Chapter 9 of COBS sets out the FSA's rules governing suitability (including basic advice).

2.8. COBS 9.2.1R provides:

> *(1) A firm must take reasonable steps to ensure that a personal recommendation, or a decision to trade, is suitable for its client.*
>
> *(2) When making the personal recommendation or managing his investments, the firm must obtain the necessary information regarding the client's:*
>
> > *(a) knowledge and experience in the investment field relevant to the specific type of designated investment or service;*
> >
> > *(b) financial situation; and*
> >
> > *(c) investment objectives;*
>
> *so as to enable the firm to make the recommendation, or take the decision, which is suitable for him.*

2.9. COBS 9.2.2R provides:

> *(1) A firm must obtain from the client such information as is necessary for the firm to understand the essential facts about him and have a reasonable basis for believing, giving due consideration to the nature and extent of the service provided, that the specific transaction to be recommended, or entered into in the course of managing:*
>
> > *(a) meets his investment objectives;*
> >
> > *(b) is such that he is able financially to bear any related investment risks consistent with his investment objectives; and*
> >
> > *(c) is such that he has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his portfolio.*
>
> *(2) The information regarding the investment objectives of a client must include, where relevant, information on the length of time for which he wishes to hold the investment, his preferences regarding risk taking, his risk profile, and the purposes of the investment.*
>
> *(3) The information regarding the financial situation of a client must include, where relevant, information on the source and extent of his regular income, his assets, including liquid assets, investments and real property, and his regular financial commitments.*

2.10. COBS 9.2.3R provides:

The information regarding a client's knowledge and experience in the investment field includes, to the extent appropriate to the nature of the client, the nature and extent of the service to be provided and the type of product or transaction envisaged, including their complexity and the risks involved, information on:

(1) the types of service, transaction and designated investment with which the client is familiar;

(2) the nature, volume, frequency of the client's transactions in designated investments and the period over which they have been carried out;

(3) the level of education, profession or relevant former profession of the client.

2.11. COBS 19.1.1R provides: "*If an individual who is not a pension transfer specialist gives a personal recommendation about a pension transfer or pension opt-out on a firm's behalf, the firm must ensure that the recommendation is checked by a pension transfer specialist.*"

2.12. COBS19.1.2R provides that

"A firm must:

(1) compare the benefits likely (on reasonable assumptions) to be paid under a defined benefits pension scheme with the benefits afforded by a personal pension scheme or stakeholder pension scheme, before it advises a retail client to transfer out of a defined benefits pension scheme;

(2) ensure that that comparison includes enough information for the client to be able to make an informed decision;

(3) give the client a copy of the comparison, drawing the client's attention to the factors that do and do not support the firm's advice, no later than when the key features document is provided; and

(4) take reasonable steps to ensure that the client understands the firm's comparison and its advice.

2.13. The Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001 (the PCIS Order) outlines the exemptions that apply to the promotion of Unregulated Collective Investment Schemes.

2.14. Article 21 of the PCIS Order provides:

21 Certified high net worth individuals

(1) If the requirements of paragraphs (4) and (7) are met, the scheme promotion restriction does not apply to any communication which—

(a) is a non-real time communication or a solicited real time communication;

(b) is made to an individual whom the person making the communication believes on reasonable grounds to be a certified high net-worth individual;

(c) relates only to units falling within paragraph (8);

(d) does not invite or induce the recipient to enter into an agreement under the terms of which he can incur a liability or obligation to pay or contribute more than he commits by way of investment.

(2) "Certified high net-worth individual" means an individual who has signed, within the period of twelve months ending with the day on which the communication is made, a statement complying with Part I of the Schedule.

(3) The validity of a statement signed for the purposes of paragraph (2) is not affected by a defect in the form or wording of the statement, provided that the defect does not alter the statement's meaning and that the words shown in bold type in Part I of the Schedule are so shown in the statement.

(4) The requirements of this paragraph are that either the communication is accompanied by the giving of a warning in accordance with paragraphs (5) and (6) or, where because of the nature of the communication this is not reasonably practicable,—

(a) a warning in accordance with paragraph (5) is given to the recipient orally at the beginning of the communication together with an indication that he will receive the warning in legible form and that, before receipt of that warning, he should consider carefully any decision to participate in a collective investment scheme to which the communication relates; and

(b) a warning in accordance with paragraphs (5) and (6) (d) to (h) is sent to the recipient of the communication within two business days of the day on which the communication is made.

(5) The warning must be in the following terms—

"Reliance on this promotion for the purpose of buying the units to which the promotion relates may expose an individual to a significant risk of losing all of the property or other assets invested".

But, where a warning is sent pursuant to paragraph (4)(b), for the words "this promotion" in both places where they occur there must be substituted wording which clearly identifies the promotion which is the subject of the warning.

(6) The warning must—

(a) be given at the beginning of the communication;

(b)precede any other written or pictorial matter;

(c) be in a font size consistent with the text forming the remainder of the communication;

(d) be indelible;

(e) be legible;

(f) be printed in black, bold type;

(g) be surrounded by a black border which does not interfere with the text of the warning; and

(h) not be hidden, obscured or interrupted by any other written or pictorial matter.

(7) The requirements of this paragraph are that the communication is accompanied by an indication—

(a) that it is exempt from the restriction on the promotion of unregulated schemes (in section 238 of the Act) on the grounds that the communication is made to a certified high net worth individual;

(b) of the requirements that must be met for an individual to qualify as a certified high net worth individual;

(c) that any individual who is in any doubt about the units to which the communication relates should consult an authorised person specialising in advising in participation in unregulated schemes.

(8) A unit falls within this paragraph if it is in an unregulated scheme which invests wholly or predominantly in the shares in or debentures of one or more unlisted companies.

(9) "Business day" means any day except a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

(10) "Unlisted company" has the meaning given in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001.

2.15. Article 23 of the PCIS Order provides:

23 Sophisticated investors

(1) "Certified sophisticated investor" means a person—

(a) who has a current certificate in writing or other legible form signed by an authorised person to the effect that he is sufficiently knowledgeable to understand the risks associated with participating in unregulated schemes; and

(b) who has signed, within the period of twelve months ending with the day on which the communication is made, a statement in the following terms:

"I make this statement so that I can receive promotions which are exempt from the restriction on promotion of unregulated schemes in the Financial Services and Markets Act 2000. The exemption relates to certified sophisticated investors and I declare that I qualify as such. I accept that the schemes to which the promotions will relate are not authorised or recognised for the purposes of that Act. I am aware that it is open to me to seek advice from an authorised person who specialises in advising on this kind of investment".

(1A) The validity of a statement signed in accordance with paragraph (1)(b) is not affected by a defect in the wording of the statement, provided that the defect does not alter the statement's meaning.

(2) If the requirements of paragraph (3) are met, the scheme promotion restriction does not apply to any communication which—

(a) is made to a certified sophisticated investor; and

(b) does not invite or induce the recipient to participate in an unregulated scheme operated by the person who has signed the certificate referred to in paragraph (1)(a) or to acquire units from that person.

(3) The requirements of this paragraph are that the communication is accompanied by an indication—

(a) that it is exempt from the scheme promotion restriction (in section 238 of the Financial Services and Markets Act 2000) on the communication of invitations or inducements to participate in unregulated schemes on the ground that it is made to a certified sophisticated investor;

(b) of the requirements that must be met for a person to qualify as a certified sophisticated investor;

(c) that buying the units to which the communication relates may expose the individual to a significant risk of losing all of the property invested;

(d) that any individual who is in any doubt about the investment to which the invitation or inducement relates should consult an authorised person specialising in advising on investments of the kind in question.

(4) For the purposes of paragraph (1)(a), a certificate is current if it is signed and dated not more than three years before the date on which the communication is made.

2.16. Article 23A of the PCIS Order provides:

23A Self-certified sophisticated investors

(1) "Self-certified sophisticated investor" means an individual who has signed, within the period of twelve months ending with the day on which the communication is made, a statement complying with Part II of the Schedule.

(2) The validity of a statement signed for the purposes of paragraph (1) is not affected by a defect in the form or wording of the statement, provided that the defect does not alter the statement's meaning and that the words shown in bold type in Part II of the Schedule are so shown in the statement.

(3) If the requirements of paragraphs (4) and (7) are met, the scheme promotion restriction does not apply to any communication which—

(a) is made to an individual whom the person making the communication believes on reasonable grounds to be a self-certified sophisticated investor;

(b) relates only to units falling within paragraph (8); and

(c) does not invite or induce the recipient to enter into an agreement under the terms of which he can incur a liability or obligation to pay or contribute more than he commits by way of investment.

(4) The requirements of this paragraph are—

(a) ...

(b) ... that either the communication is accompanied by the giving of a warning in accordance with paragraphs (5) and (6) or, where because of the nature of the communication this is not reasonably practicable,—

(i) a warning in accordance with paragraph (5) is given to the recipient orally at the beginning of the communication together with an indication that he will receive the warning in legible form and that, before receipt of that warning, he should consider carefully any decision to participate

in a collective investment scheme to which the communication relates; and

(ii) a warning in accordance with paragraphs (5) and (6) (d) to (h) is sent to the recipient of the communication within two business days of the day on which the communication is made.

(5) The warning must be in the following terms—

"Reliance on this promotion for the purpose of buying the units to which the promotion relates may expose an individual to a significant risk of losing all of the property or other assets invested."

But, where a warning is sent pursuant to paragraph (4)(b), for the words "this promotion" in both places where they occur there must be substituted wording which clearly identifies the promotion which is the subject of the warning.

(6) The warning must—

(a) be given at the beginning of the communication;

(b) precede any other written or pictorial matter;

(c) be in a font size consistent with the text forming the remainder of the communication;

(d) be indelible;

(e) be legible;

(f) be printed in black, bold type;

(g) be surrounded by a black border which does not interfere with the text of the warning; and

(h) not be hidden, obscured or interrupted by any other written or pictorial matter.

(7) The requirements of this paragraph are that the communication is accompanied by an indication—

(a) that it is exempt from the scheme promotion restriction (in section 238 of the Act) on the communication of invitations or inducements to participate in unregulated schemes on the ground that it is made to a self-certified sophisticated investor;

(b) of the requirements that must be met for an individual to qualify as a self-certified sophisticated investor;

(c) that any individual who is in any doubt about the investment to which the invitation or inducement relates should consult an authorised person specialising in advising on investments of the kind in question.

(8) A unit falls within this paragraph if it is in an unregulated scheme which invests wholly or predominantly in the shares in or debentures of one or more an unlisted companies.

(9) "Business day" means any day except a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

(10) "Unlisted company" has the meaning given in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001.

Decision Procedure and Penalties Manual (DEPP)

2.17. Guidance on the imposition and amount of penalties is set out in Chapter 6 of DEPP. Changes to DEPP were introduced on 6 March 2010. Given that most of the misconduct occurred after that date, the FSA has had regard to the provisions of DEPP in force after that date.

Enforcement Guide (EG)

2.18. The FSA's approach to taking disciplinary action is set out in Chapter 2 of EG. The FSA's approach to financial penalties and public censures is set out in Chapter 7 of EG.

2.19. EG 7.1 states that the effective and proportionate use of the FSA's powers to enforce the requirements of the Act, the rules and the Statements of Principles for Approved Persons will play an important role in the FSA's pursuit of its regulatory objectives. Imposing financial penalties and public censures shows that the FSA is upholding regulatory standards and helps to maintain market confidence and deter financial crime. An increased public awareness of regulatory standards also contributes to the protection of consumers.