
FINAL NOTICE

To: **Ringways Garages (Leeds) Limited; and
Ringways Garages (Doncaster) Limited**

Of: **Whitehall Road, Leeds, Yorkshire LS12 5NL; and
York Road, Doncaster, Yorkshire, DN5 8TW**

Date: **20 August 2008**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") gives you final notice about a requirement to pay a financial penalty.

1. THE PENALTY

- 1.1. The FSA gave Ringways Garages (Leeds) Limited ("Ringways Leeds") and Ringways Garages (Doncaster) Limited ("Ringways Doncaster", together "Ringways" or "the Firms") a Decision Notice on 12 August 2008 which notified Ringways that pursuant to section 206 of the Financial Services and Markets Act 2000 ("the Act"), the FSA had decided to impose a financial penalty of £35,000 on Ringways. This penalty is in respect of breaches of Principle 9 of the FSA's Principles for Businesses (the "Principles") and associated rules between 14 January 2005 and 31 December 2007 ("the Relevant Period") in relation to advised sales of payment protection insurance ("PPI") by staff at Ringways' motor dealer showrooms.
- 1.2. Ringways confirmed on 7 August 2008 that it will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. Accordingly, for the reasons set out below and having agreed with Ringways the facts and matters relied on, the FSA imposes a financial penalty on Ringways in the amount of £35,000.
- 1.4. Ringways agreed to settle at an early stage of the FSA's investigation. It therefore qualified for a 30% (stage 1) reduction in penalty, pursuant to the FSA's executive

settlement procedures. Were it not for this discount, the FSA would have imposed a financial penalty of £50,000 on Ringways.

- 1.5. The level of penalty reflects the FSA's announcement in the PPI thematic update of 26 September 2007 that higher fines will be imposed where this is warranted by the nature, seriousness and impact of the breach in question, and by the likely impact on deterrence.

2. REASONS FOR THE ACTION

- 2.1. The FSA has imposed a financial penalty on Ringways for breaches of the FSA's Principles and rules in relation to its sale of PPI.
- 2.2. These breaches, which are described in more detail at sections 4 and 5 below, relate to the Firms' failure to take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgement (Principle 9).
- 2.3. Ringways breached Principle 9 by failing to take reasonable care in recommending a PPI product which was suitable for its customers and by failing adequately to monitor its sales.
- 2.4. Ringways' failings exposed approximately 445 customers to the unacceptable risk of buying PPI policies that were not suitable for them during the Relevant Period. As a result Ringways failed to treat its customers fairly.
- 2.5. Ringways' breaches are viewed as particularly serious because during the Relevant Period:
 - (1) Ringways' sales staff were not required to gather, and take into account, sufficient information about customers' personal circumstances and objectives when making sales. Ringways' processes did not therefore take adequate steps to ensure that its personal recommendations were suitable;
 - (2) Ringways did not provide its customers with information that adequately set out their demands and needs and explain why Ringways was recommending the policy;
 - (3) Ringways did not have effective systems to monitor its staff. In particular, it failed to ensure that its procedures for monitoring sales staff effectively identified and investigated potentially unsuitable sales;
 - (4) Management information provided to Ringways' senior management was not sufficient to enable them to identify problems with the sale of PPI;
 - (5) Ringways' records were not sufficient to demonstrate its sales were suitable; and
 - (6) The problems in Ringways' sales processes were identified by the FSA, and not by Ringways' own systems and procedures. The failings arose against a background of high profile communications by the FSA highlighting the

need for firms to ensure their PPI sales processes were meeting FSA requirements.

- 2.6. There are several factors which the FSA has taken into account in mitigation. Most notably, Ringways suspended sales of PPI, voluntarily varied its permissions accordingly and implemented a remedial action plan.
- 2.7. The FSA considers that Ringways senior management's willingness to cooperate fully with the investigation and the remedial changes Ringways have committed to are significant steps in demonstrating the Firms' commitment to complying with their regulatory obligations.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

- 3.1. The FSA's statutory objectives, set out in section 2(2) of the Act, are market confidence, public awareness, the protection of consumers and the reduction of financial crime.

- 3.2. Section 206 of the Act provides:

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

Principles for Businesses

- 3.3. The FSA's Principles are a general statement of the fundamental obligations of firms under the regulatory system. They derive their authority from the FSA's rule-making powers as set out in the Act and reflect the FSA's regulatory objectives.
- 3.4. The Principle relevant to this matter is Principle 9 (customers: relationships of trust)

"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 judgement."

Rules and guidance

- 3.5. Relevant FSA rules and guidance are set out in Annex A to this Notice.
- 3.6. Details of the FSA's policy on imposing financial penalties are also set out in Annex A to this notice.

FSA communications regarding PPI during the Relevant Period

- 3.7. Prior to and during the Relevant Period, the FSA communicated to firms the importance of having in place robust systems and controls when selling PPI.
- 3.8. In November 2005, the FSA published on its website the results of the first phase of its thematic work on PPI, highlighting a number of key areas where firms were not treating their customers fairly. This report identified that the training and competence

of sales staff was not sufficient in many of the firms the FSA visited, and also that compliance monitoring was very poor in some cases.

- 3.9. The report also identified that if a firm gives advice it should review how the suitability assessment is made to ensure the adviser fully assesses the customer's need for PPI. Should it then go on to recommend a PPI policy to a customer, a firm must clearly set out the reasons why it has concluded that a customer requires PPI and why it is recommending the policy.
- 3.10. The FSA reported on the second phase of PPI thematic work in October 2006. The FSA noted that for smaller firms, whose main business was not financial services, there was a risk of customer detriment owing to poorly trained sales staff and lack of supervision of their activities. The FSA also highlighted its concern that some firms were still failing to establish that the PPI policies they recommended were suitable because they were not collecting sufficient information from the customer.
- 3.11. The FSA visited Ringways in May 2007 as part of a third phase of thematic work on PPI and identified a number of concerns relating to Ringways' sale of PPI.

4. FACTS AND MATTERS RELIED ON

Background

- 4.1. The Firms have been authorised by the FSA to advise on, arrange and deal in non-investment insurance contracts since 14 January 2005.
- 4.2. Ringways' main business is as a motor dealer. It has a secondary business selling third party consumer finance, PPI and other insurance to customers in connection with their motor purchases.
- 4.3. The FSA's investigation relates to PPI sales made by the Firms. The Firms employed approximately 24 PPI sales staff during the Relevant Period.
- 4.4. Ringways sold PPI on an advised, face to face basis and recommended PPI products to its customers as part of the sale of a motor vehicle.
- 4.5. Ringways offered four types of PPI policy: Platinum (life, critical illness, accident, sickness and involuntary unemployment cover), Gold U (life, critical illness and involuntary unemployment cover), Gold A (life, critical illness, accident and sickness cover) and Silver (life and critical illness cover). The premiums for each policy were payable by regular monthly instalments.
- 4.6. Ringways Leeds sold 221 PPI policies from 2005 to 2007, generating an income from those sales of approximately £40,352 (i.e. earned commissions). Ringways Doncaster sold 224 PPI policies from 2005 to 2007, generating an income from those sales of approximately £47,584.

The suitability assessment

- 4.7. A Ringways sales person held a conversation with each customer which was intended to assess the customer's eligibility for PPI and the product's suitability for that customer.
- 4.8. Throughout the Relevant Period, Ringways' documented procedures (including sales documentation) did not require adequate information to be collected and then properly used when recommending PPI (although information in respect of eligibility was required). In particular, Ringways failed to gather sufficient information from each customer regarding:
- (1) existing insurance cover: the Statement of Demands and Needs ("SODAN") which was in effect until the end of 2005 did consider issues of existing insurance, but these questions were then removed from the SODAN after the end of 2005;
 - (2) the customer's pre-existing medical conditions; and
 - (3) cost of the policy/affordability.
- 4.9. The lack of information meant that Ringways was unable to assess the suitability of a PPI policy for its customers.

The Statement of Demands and Needs

- 4.10. An integral part of the sales documentation is the SODAN. This should document a customer's individual circumstances pertinent to the insurance and should state the PPI policy which has been recommended by the firm and the reasons for the recommendation.
- 4.11. Ringways' SODAN was inadequate and did not enable the Firms to demonstrate that suitability had been adequately considered and assessed. The SODAN failed to record sufficient information material to the insurance, particularly in respect of pre-existing medical conditions and, for some of the Relevant Period, existing insurance cover. This meant that customers may have been sold PPI policies which were not suitable for their needs and requirements.
- 4.12. The SODAN Ringways used during the Relevant Period did not include a section for the provision of reasons for the recommendation. Ringways failed to record any reason(s) why it recommended a PPI policy to its customers.

Sales monitoring

- 4.13. The Firms sold PPI without effectively monitoring their sales force to ensure they were selling PPI fairly. The Firms appear to have had some limited monitoring in place in relation to PPI sales. For instance, sales managers reviewed sales made and senior management sometimes carried out file reviews. However, this monitoring was not sufficiently robust, particularly in relation to ensuring the suitability of sales made.
- 4.14. Ringways kept records in relation to the training of their staff. However, Ringways was not keeping adequate records to demonstrate that management were monitoring:

- (1) sales staff on an ongoing basis to ensure ongoing competence in relation to each sale made; and
 - (2) whether customers were sold contracts of insurance that were suitable for their demands and needs.
- 4.15. Ringways had no documented monitoring procedures during the Relevant Period. There were occasional file review checks by management, but this was largely to establish that all documentation had been completed rather than to check to ensure the suitability of recommendations.
- 4.16. Any monitoring was on an ad hoc basis and was not recorded. In particular, Ringways did not employ a procedure to formalise what should be reviewed in the sales file, how this information should be recorded and how the results should be used to assess competence.
- 4.17. During the sales process, sales staff and sales managers discussed matters such as the cost of the PPI and car finance, but the sales process did not require a review of the suitability of the recommendation to purchase PPI.

Management information

- 4.18. Although senior management received financial information on PPI sales, there was no, or very little, information produced for senior management in relation to the monitoring of PPI sales. Senior management were not therefore able adequately to consider any trends or compliance failings that management information would have identified.

5. ANALYSIS OF BREACHES

- 5.1. The FSA considers that Ringways has breached Principle 9 of the FSA's Principles for Businesses in the following respects:
 - (1) Ringways failed to gather sufficient information about each individual customer. Because of this, Ringways was unable to provide a suitable level of advice to its customers or to ensure that any PPI policy it recommended to its customers was suitable for their needs.
 - (2) The SODAN used by Ringways during the Relevant Period did not allow Ringways to record whether a customer's circumstances were considered before a recommendation was made, and did not allow Ringways to explain the reasons for the recommendation. Consequently, Ringways failed to demonstrate that it took reasonable care to ensure the suitability of the PPI product recommended to its customers.
 - (3) Ringways failed to carry out formal and regular monitoring, which meant that management was unable to satisfy itself of the effectiveness of its sales process or that it was being properly followed. The failure to produce management information meant that senior management were unable to inform themselves of any potential shortcomings in its PPI sales processes.

- (4) By reason of the above failings, Ringways' sales process created an unacceptable risk of PPI being mis-sold to its customers.

5.2. Ringways also breached the following provisions of ICOB:

- (1) ICOB 4.3.1 R (requirement for suitability);
- (2) ICOB 4.3.2 R (information about the customer's demands and needs);
- (3) ICOB 4.3.6 R (assessing the suitability of a contract against the customer's demands and needs); and
- (4) ICOB 4.4.1 R (statement of demands and needs).

6. ANALYSIS OF THE SANCTION

Determining the level of the financial penalty

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

Deterrence

- 6.2. As communicated to the market in the FSA's thematic update on the sale of PPI published on 26 September 2007, in line with its general approach, the FSA is seeking to increase the level of fines where this is warranted by the nature, seriousness and impact of the breach in question, and by the likely impact on deterrence. Firms have been given due warning of their obligations to treat customers fairly, both generally and on PPI in particular. Consequently, the FSA will now seek to impose relatively higher fines for firms in the PPI market where standards fall below required levels.

The seriousness of the breaches

- 6.3. The FSA has had regard to the seriousness of the breaches, including the nature of the requirements breached, the number and duration of the breaches, the extent to which the breaches revealed serious or systemic weakness of the management systems or internal controls, the number of customers who were exposed to risk of loss and the number of customers likely actually to suffer financial detriment.
- 6.4. For the reasons set out at paragraph 2.5 above and having regard to the impact on Ringways' customers, the FSA considers that the breaches are of a serious nature.

The extent to which the breach was deliberate or reckless

- 6.5. The FSA does not consider that the firm acted in a deliberate or reckless manner.

The amount of profits accrued

- 6.6. The FSA has taken into account the profits the Firms made from sales of PPI during the Relevant Period (see paragraph 4.6 above).
- 6.7. The sale of PPI is a tertiary activity for Ringways (behind motor sales and arranging credit) and, in terms of total profits made, it is a small part of Ringways' business.

The size, financial resources and other circumstances of the firm

- 6.8. There is no evidence to suggest that Ringways is unable to pay the penalty.

Conduct following the breach

- 6.9. Once the FSA informed the Firms of its concerns, Ringways suspended its PPI sales and voluntarily varied its permissions accordingly.
- 6.10. Ringways and its senior management have cooperated fully with the Enforcement action.
- 6.11. Ringways is in the process of making a significant number of changes to its sales and monitoring processes. It has committed to a remedial action plan, overseen by an external compliance consultant, involving a programme of customer contact and, if appropriate, steps to ensure that its customers have not been disadvantaged.
- 6.12. Without these positive steps, the financial penalty would have been higher.

Disciplinary record and compliance history

- 6.13. Ringways has been authorised by the FSA to advise on, arrange and deal in non-investment insurance contracts since 14 January 2005. Ringways has no previous disciplinary history with the FSA.

Previous action taken in relation to similar failings

- 6.14. In determining the level of financial penalty, the FSA has taken into account penalties imposed by the FSA on other authorised persons for similar behaviour. This was considered alongside the principal purpose for which the FSA imposes sanctions, namely to promote high standards of regulatory 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.

FSA guidance and other published materials

- 6.15. In determining the appropriate level of financial penalty, the FSA has had regard to the fact that the FSA has published a wealth of materials (as described at paragraphs 3.7 to 3.11 above) which raised relevant concerns and set out examples of compliant

behaviour in relation to the sale of PPI. Ringways' apparent disregard of these materials increases the seriousness with which the FSA has viewed the breaches.

7. CONCLUSIONS

- 7.1. Having regard to the seriousness of the breaches and the risk they posed to the FSA's statutory objectives of maintaining confidence in the financial system and securing the appropriate degree of protection for consumers, the FSA has imposed a financial penalty of £35,000 on Ringways.

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 Ringways in accordance with section 390 of the Act.

10. Manner of and time for Payment

- 10.1. The financial penalty must be paid in full by Ringways to the FSA by no later than 3 September 2008, 14 days from the date of the Final Notice.

11. If the financial penalty is not paid

- 11.1. If all or any of the financial penalty is outstanding on 4 September 2008, the FSA may recover the outstanding amount as a debt owed by Ringways and due to the FSA.

12. Publicity

- 12.1. 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.
- 12.2. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

13. For more information concerning this matter generally, you should contact Suzanne Burt (direct line: 020 7066 1062 /fax: 020 7066 1063) of the Enforcement Division of the FSA.

William Amos

**Head of Retail 1
FSA Enforcement Division**

Annex A: Rules and guidance

1. Insurance: Conduct of Business

- 1.1. The part of the FSA Handbook entitled Insurance: Conduct of Business (ICOB) in force during the Relevant Period contained rules and guidance relevant to sales of PPI.
- 1.2. From 6 January 2008 ICOB was replaced by the Insurance: New Conduct of Business sourcebook (ICOBS).

Suitability

- 1.3. ICOB 4.3.1 R (1) provides that an insurance intermediary must take reasonable steps to ensure that, if in the course of insurance mediation activities it makes any personal recommendation to a customer to buy or sell a non-investment insurance contract, the personal recommendation is suitable for the customer's demands and needs at the time the personal recommendation is made.
- 1.4. ICOB 4.3.2 R provides that in assessing the customer's demands and needs, the insurance intermediary must:
 - (1) seek such information about the customer's circumstances and objectives as might reasonably be expected to be relevant in enabling the insurance intermediary to identify the customer's requirements. This must include any facts that would affect the type of insurance recommended, such as any relevant existing insurance;
 - (2) have regard to any relevant details about the customer that are readily available and accessible to the insurance intermediary, for example, in respect of other contracts of insurance on which the insurance intermediary has provided advice or information; and
 - (3) explain to the customer his duty to disclose all circumstances material to the insurance and the consequences of any failure to make such a disclosure, both before the non-investment insurance contract commences and throughout the duration of the contract; and take account of the information that the customer discloses.
- 1.5. ICOB 4.3.6 R provides that in assessing whether a non-investment insurance contract is suitable to meet a customer's demands and needs, an insurance intermediary must take into account at least the following matters:
 - (1) whether the level of cover is sufficient for the risks that the customer wishes to insure;
 - (2) the cost of the contract, where this is relevant to the customer's demands and needs; and
 - (3) the relevance of any exclusions, excesses, limitations or conditions in the contract.

Statement of Demands and Needs

1.6. ICOB 4.4.1 R states that:

- (1) unless ICOB 4.4.2 R (which is not relevant to Ringways) applies, where an insurance intermediary arranges for a customer to enter into a non-investment insurance contract (including at renewal), it must, before the conclusion of that contract, provide the customer with a statement that:
 - (a) sets out the customer's demands and needs;
 - (b) confirms whether or not the insurance intermediary has personally recommended that contract; and
 - (c) where a personal recommendation has been made, explains the reasons for personally recommending that contract.
- (2) The statement in (1) must reflect the complexity of the contract of insurance proposed.
- (3) Unless (4) applies, the statement in (1) must be provided in a durable medium.
- (4) An insurance intermediary may provide the statement in (1) orally if:
 - (a) the customer requests it; or
 - (b) the customer requires immediate cover;

but in both cases the insurance intermediary must provide the information in (1) immediately after the conclusion of the contract, in a durable medium.

2. The FSA's policy on the imposition of financial penalties

- 2.1. The FSA's policy in relation to the imposition of financial penalties is set out in Chapter 6 of the Decision Procedure and Penalties Manual (DEPP) which forms part of the FSA Handbook. It was previously set out in Chapter 13 of the Enforcement Manual (ENF). The 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.
- 2.2. The FSA will consider the full circumstances of each case when determining whether or not to take action for a financial penalty. DEPP6.2.1G sets 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) DEPP6.2.1G(1): The nature, seriousness and impact of the suspected breach.
 - (2) DEPP6.2.1G(2): The conduct of the person after the breach.

- (3) DEPP6.2.1G(3): The previous disciplinary record and compliance history of the person.
- (4) DEPP6.2.1G(4): FSA guidance and other published materials.
- (5) DEPP6.2.1G(5): Action taken by the FSA in previous similar cases.

3. Determining the level of the financial penalty

- 3.1. The FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty. DEPP6.5.2G, and previously ENF 13.3.3 G, sets out guidance on a non exhaustive list of factors that may be of relevance when determining the amount of a financial penalty.
- 3.2. Factors that may be relevant to determining the appropriate level of financial penalty include:
 - (1) whether the breach revealed serious or systematic weaknesses in the person's procedures or of the management systems or internal controls relating to all or part of a person's business (DEPP 6.5.2 G (2) (b)); and
 - (2) 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 6.5.2 (9) (d)).
- 3.3. Corresponding provisions are set out in ENF 13.3.3 G, which sets out factors that may be relevant when determining the appropriate level of financial penalty for a firm including the following:
 - (1) whether the misconduct or contravention revealed serious or systematic weaknesses of the management systems or internal controls relating to all or part of the firm's business (ENF 13.3.3 G (1) (c)); and
 - (2) disciplinary record and compliance history. This will include whether the FSA has previously requested the firm to take remedial action, and the extent to which that action has been taken (ENF 13.3.3 G (6)).