
FINAL NOTICE

To: Sesame Limited

**Of: Oasis Park
Stanton Harcourt Road
Eynsham
Witney
Oxfordshire OX29 4AE**

Date: 19 April 2007

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 Sesame Limited (Sesame) a Decision Notice on 17 April 2007 which notified Sesame 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 £330,000 on Sesame in respect of breaches of:

- (1) Principles 2 and 6 of the FSA's Principles for Businesses (FSA Principles); and
- (2) FSA rules 1.2.1, 1.2.16 and 1.2.22 in the part of the FSA Handbook entitled Dispute Resolution: Complaints (DISP).

- 1.2. Sesame has confirmed that it will not be referring the matter to the Financial Services and Markets Tribunal. Accordingly, for the reasons set out below and having agreed with Sesame the facts and matters relied on, the FSA imposes a financial penalty of £330,000.

2. REASONS FOR THE PENALTY

- 2.1. The penalty is in respect of breaches of the FSA Principles and Rules identified in paragraph 1.1 that occurred between March 2003 and October 2004 (the relevant period) in respect of Structured Capital at Risk Products (SCARPs) complaints handling.

- 2.2. Sesame acted in contravention of FSA's Principle 2 by failing to conduct its SCARPs complaints handling with due skill, care and diligence in that:

- (1) Sesame's complaints department failed consistently to conduct adequate investigations or make further enquiries and rejected SCARPs complaints without sufficient evidence;
- (2) Although two dedicated SCARPs complaint handlers were appointed, Sesame failed to provide appropriate guidance and training to complaints handlers to ensure that SCARPs complaints were handled fairly and consistently; and
- (3) Sesame failed to monitor that its complaints handlers were following its procedures consistently.

- 2.3. Sesame has acted in contravention of FSA's Principle 6 by failing to pay due regard to the interests of its customers and treat them fairly during the relevant period, in that:

- (1) complaints of approximately 350 customers who had been mis-sold SCARPs by Sesame's legacy networks and had lost nearly £5.9 million were rejected by Sesame without sufficient evidence; and
- (2) Sesame did not take adequate action (e.g. to review its internal complaints procedures, provide appropriate guidance and training to its complaints handlers and monitor that procedures were followed) when it became aware of the increased risk of receiving a significant number of SCARPs complaints; not least, as a result of being made aware that that different parts of the group had applied different risk ratings to SCARPs.

- 2.4. Sesame's failings are viewed by the FSA as being particularly serious for the following reasons:

- (1) in many cases SCARPs are highly complex investment products carrying a high level of investment risk. Such products would not have been suitable for customers who were either averse to risk or had a low tolerance to risk;
- (2) SCARPs customers whose complaints were rejected inappropriately were exposed to the risk that they would not receive appropriate compensation;

- (3) some of Sesame's SCARPs sales were made to retired customers who were not in a position to replace capital lost due to stock market downturns. Complaint handlers failed to take this into consideration when assessing whether customers had been mis-sold SCARPs;
 - (4) Sesame was aware that SCARPs carried a risk of capital loss and that differences in the risk ratings applied by its legacy networks could result in SCARPs complaints being handled inconsistently. However, Sesame failed to take appropriate steps to ensure that appropriate guidance was given to the complaints handlers to ensure that these risks were taken into account so that complaints were handled fairly and consistently; and
 - (5) the failings occurred during a period when there was a high level of industry awareness of the importance of fair and adequate complaint handling. Despite a number of regulatory publications which detailed the risks associated with SCARPs Sesame failed to ensure that it handled SCARPs complaints consistently and fairly.
- 2.5. Sesame's failings in relation to SCARPs were identified by the FSA as a result of its thematic work on SCARPs. If the FSA had not identified these failings there was a material risk that the problems would not have been identified and appropriate compensation would not have been paid.
- 2.6. While the failings in this case merit a financial penalty, the FSA recognises that they have been mitigated by the following:
- (1) Sesame conducted a prompt review of all SCARPs complaints in order to identify complaints where the complaint handling had not been conducted in an adequate manner. Sesame paid compensation to customers where the complaints handling process was inadequate and the original SCARP was mis-sold;
 - (2) Sesame co-operated fully with the FSA during the course of the investigation;
 - (3) Following the FSA's report on its SCARPs thematic review Sesame, promptly and on its own initiative, engaged leading firms of accountants and solicitors to advise it on its procedures for handling SCARPs complaints and to train its complaint handlers in the handling of SCARPs complaints. Sesame organised a team of complaint handlers dedicated to SCARPs complaints; and
 - (4) Immediately upon receipt of the findings of the FSA's thematic review in August 2004, Sesame established a specialist complaints handling team for SCARPs complaints. Sesame has satisfied the FSA that its current complaint handling procedures in relation to SCARPs are of satisfactory quality.
- 2.7. Without this level of co-operation or mitigation, the financial penalty would have been substantially higher.

3. RELEVANT STATUTORY PROVISIONS AND REGULATORY REQUIREMENTS

3.1. 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”.

FSA's Principles for Businesses

3.2. FSA Principle 2 provides that a firm must conduct its business with due skill, care and diligence.

3.3. FSA Principle 6 provides that a firm must pay due regard to the interests of its customers and treat them fairly.

Complaints handling

3.4. DISP 1.2.1R provides that a firm must have in place and operate appropriate and effective internal complaint handling procedures.

3.5. DISP 1.2.16R provides that a firm's internal complaint handling procedures must make provision for complaints to be investigated by an employee of sufficient competence and for responses to complaints to address adequately the subject matter of the complaint.

3.6. DISP 1.2.22R provides that a firm must put in place appropriate management controls and take reasonable steps to ensure that it handles complaints fairly, consistently and promptly and that it identifies and remedies any recurring or systemic problems as well as any specific problem identified by a complaint.

4. BACKGROUND

The regulated firm

4.1. Sesame was formed by the merging first of Kestrel Financial Management Limited, Financial Options Limited, IFA Network Limited and Countrywide Independent Advisers Limited, and then of DBS Financial Management Plc (DBS) (collectively the legacy networks). Prior to the merger, each network was run as a separate business.

4.2. The merger of the complaints handling departments of Sesame's legacy networks occurred in December 2002, although the complaints handling function continued to be handled on two sites (Oxford and Huddersfield). The two sites would be staffed by those people who had worked at the respective locations previously. One manager was responsible for both sites.

Regulatory material

- 4.3. A number of publications had been issued by regulatory authorities in relation to derivative-linked investments (which would have included most SCARPs). The purpose of some of the publications was to alert firms and consumers to the risks of these types of products and to ensure that the risks involved were carefully explained to customers. The FSA also issued a Dear CEO letter on 4 April 2002 that focussed on the FSA's concerns about mortgage endowment complaints.
- 4.4. The Dear CEO letter, while aimed at mortgage endowment complaints, made the following points which were relevant to SCARPs complaints or any other types of complaints:
- (1) issues should be investigated diligently, including the selling practices at the time, training, instructions, sales scripts, etc;
 - (2) ambiguous issues or conflicts of evidence should be clarified before finding against the consumer; and
 - (3) complaints should not be rejected solely on the basis that the consumer signed a proposal form or failed to exercise the cancellation right.

Discovery of the issues

- 4.5. The problems in SCARPs complaints handling were identified as part of a SCARPs thematic review during March and August 2004. Sesame was referred to Enforcement due to the seriousness of the concerns identified during the visits including a very high rejection rate of SCARPs complaints (in excess of 98%).

5. CONTRAVENTION OF RELEVANT REGULATORY REQUIREMENTS

Failure to operate appropriate and effective complaint handling procedures

Introduction of new procedures in the complaints department

- 5.1. New procedures for complaints handling were introduced in December 2002 for staff based in Huddersfield (former DBS staff) prior to the merger of the complaints handling areas. Initial training was provided on these procedures by two complaint handlers who were based in Oxford (formerly with the other legacy networks). The purpose of the training was an attempt by Sesame's management to improve the efficiency of the complaint handling areas.
- 5.2. Following this training, two complaints handlers interviewed by the FSA understood they were to process complaints with less investigation of issues and to place greater emphasis on looking for reasons to reject complaints rather than uphold them. For example, if the documentation showed that during the sales process the customer had been given documents that contained the relevant risks of the contract, then that was deemed to be sufficient evidence to reject a complaint. The FSA accepts that Sesame did not have a deliberate policy to influence complaint handlers in this way and the understanding taken away by the two complaint handlers was an unintended outcome.

- 5.3. Several months after the initial training, Sesame's middle management became aware that some complaint handlers had picked up different messages from the training. Subsequently, Sesame made it clear to complaint handlers that they should assess each case on its own merits. This message was relayed at team meetings and in written communications.
- 5.4. Although Sesame became aware of the risk of staff not dealing appropriately with complaints, it failed to put in place any remedial action to assess or determine whether the breakdown in communication had led to complaint handlers making incorrect decisions on complaints.

Failure to follow procedures

- 5.5. The procedures manual required that decision trees should be used as a guidance tool for complaint handlers and that complaint handlers should use an Investment File Assessment Form to assist with the review of investment-type cases. For each case a complaint handler should have completed a copy of the form. However, the form was rarely found on completed complaint files. Managers responsible for the complaints area were aware of this issue but failed to ensure that the form was used consistently. Failure to fill in the form limited the ability of Sesame to monitor adequately whether procedures were being followed and complaints dealt with consistently.

FSA's analysis of Sesame complaint files

- 5.6. As part of its investigation, the FSA reviewed a sample of 31 complaint files. The results of the review identified that in a number of cases complaint handlers failed, to the detriment of customers, to investigate issues adequately, and did not clarify ambiguous or unclear issues or conflicts of evidence (as set out below). The review also identified that in three cases complaints handlers too readily stated that customers had not provided sufficient evidence of a mis-sale.

Direct offer complaints

- 5.7. Sesame received 54 complaints about direct offer sales in the relevant period. The DBS Research Department had issued templates to DBS's appointed representatives (ARs) for use as direct mailshots. Such templates included the following statements: "*Tax-Free Low-Risk Income and Growth*"....."*Interest rates on savings are poor*"....."*Stock markets are volatile and risky at the moment*"....."*Protection against stock market falls*".
- 5.8. ARs used these templates which attracted consumers who had bank and building society deposit accounts. One of these templates described the SCARP as an investment with "*low risk*" in bold headlines and in large font. The promotion also placed emphasis on the "*protection against stock market falls*" claim as well as its income or capital growth potential. In fact, this particular SCARP was highly geared. The information about capital return and gearing was contained in small font at the bottom of page three of the letter. Complaint handlers rejected complaints about direct offer SCARP sales on the basis that no advice had been given but failed to assess adequately whether the direct offer itself was fair, clear and not misleading.
- 5.9. Other direct offers involved cases where customers complained that they had been given advice. In these cases the documentation in the customer files recorded that

they were direct offer cases. The complaints handlers commonly rejected such complaints on the basis that no advice had been given. In such cases they should have undertaken further enquiries to determine whether advice had been given, for example, by checking the advisers' recollections of the sales. Even in cases where there was evidence contained in the customer files that advice had been given, complaints handlers failed to review these cases as advised sales.

Attitude to risk

- 5.10. The FSA identified the following problems in respect of customers' attitude to risk:
- (1) In eight cases complaint handlers did not take sufficient steps to resolve the discrepancy between the customers' recollection of their attitude to risk as stated in complaint forms and the attitude to risk that was recorded on customer files;
 - (2) In 13 cases complaint handlers had not identified, or had disregarded too readily, the fact that the SCARP was sometimes described as low risk whereas the maturity values of the underlying products and product structure indicated that this was not correct; and
 - (3) in seven cases, complaint handlers considered that investments in SCARPs were appropriate for customers with a cautious to balanced attitude to risk, where 'know your client' information indicated that they had not previously invested in equity or derivative-backed investments.
- 5.11. Complaint handlers should have made further enquiries to resolve these apparent discrepancies. Failure to do so showed a lack of due care and diligence.

Customer objectives

- 5.12. In two cases, complaint handlers failed to take account of whether it was in customers' best interests to invest capital in a SCARP or to pay off a mortgage.
- 5.13. In eight cases, complaint handlers placed little weight on, or disregarded, evidence indicating that some customers wanted capital certainty or more security with regard to the capital invested.

Retired customers

- 5.14. In 14 of the cases reviewed, final decision letters did not consider the significance of the implications of investing in SCARPs where customers were elderly and retired. These customers would be less able to replace losses due to stock market downturns.

Downside gearing

- 5.15. In 11 of the 31 cases reviewed, the FSA found that complaints handlers did not place adequate weight upon the fact that 'reason why' letters did not contain details of the downside gearing of SCARPs. In seven cases, 'reason why' letters also stated that advisers had recommended investments in SCARPs which were described in those letters as low risk investments. However, the product literature clearly indicated that particular SCARPs were highly geared.

Explanation of risks

- 5.16. In ten cases, complaint handlers did not analyse effectively whether the risks of SCARPs had been adequately explained by advisers to customers. Complaint handlers' decision letters stated inappropriately that Sesame was satisfied that customers had been provided with sufficient information during the advice process. However, complaint handlers in such cases had not made further enquiries (which they should have done) to determine whether the adviser had adequately explained the risks associated with the product, despite complainants claiming that they had not been advised of those risks.

Conclusions

5.17. Serious shortcomings in Sesame's SCARPs complaints handling process were identified by the FSA's investigation. Sesame failed to comply with DISP 1.2.1R in that complaints handling procedures were not operated appropriately and effectively in respect of SCARPs complaints. Sesame thereby failed to act with due skill, care and diligence in the control and operation of its SCARPs complaints handling and this in turn resulted in some of its customers not being treated fairly. The following are the key shortcomings that resulted in customers not being treated fairly:

- (1) where only limited information was available about the original sale, complaint handlers were reaching decisions (often to reject complaints) without making adequate enquiries;
- (2) complaint handlers did not consider whether direct offers that had been sent to customers were fair, clear and not misleading; and
- (3) as set out in paragraph 5.5, complaint handlers failed to follow written complaints procedures consistently. This limited the ability of Sesame to monitor adequately whether procedures were being followed and complaints dealt with consistently.

Failure to ensure that SCARPs complaint handlers were sufficiently competent and to ensure that responses to complaints addressed adequately the subject matter of the complaint

Lack of adequate training

5.18. Sesame's complaint handling processes did not recognise SCARPs as a separate product in their own right. However, SCARPs were a new range of complex products, some of which involved the use of derivatives and leveraged gearing. Legacy networks had applied different risk ratings to SCARPs and these risk ratings needed to be understood by the complaint handlers so that they would be interpreted consistently. Sesame was also aware of the very large potential losses that were projected on some SCARPs and it expected to receive increased numbers of SCARPs complaints. These factors collectively ought to have alerted the firm to the need for specific training to ensure that complaint handlers were consistent in their handling of SCARPs complaints. Sesame, however, did not provide specific SCARPs training. This resulted in complaint handlers failing to take into account features peculiar to SCARPs, such as their closed-end nature where maturity values were crystallised on a specific date and the fact that some of the products had significant downside gearing.

5.19. In about March 2003, two complaint handlers (one based in Huddersfield and the other in Oxford) were given specific responsibility for SCARPs complaints. However, specific training on how to deal with complaints relating to these products was not provided to them. One of the individuals was self-taught through reviewing providers' key features documents, research undertaken by ARs and looking at providers' websites.

5.20. Given that SCARPs were a relatively new and complex product it should not have been left to complaint handlers to acquaint themselves with such products. Management should, at the very least, have verified that complaint handlers were

competent to handle SCARPs complaints. Sesame's management understood and were aware of the risks associated with SCARPs, but failed to provide adequate training about the features and risks of SCARPs to those dealing with SCARPs complaints. This shows a lack of due care and diligence.

Final decision letters

- 5.21. The matters set out in paragraphs 5.7 to 5.20 demonstrate that complaint handlers failed to ensure that SCARPs complaints were adequately investigated. Final decision letters on SCARPs that were sent to complainants therefore failed to address adequately the subject matter of the complaints.

Conclusions

- 5.22. Sesame should have taken steps to ensure that appropriate guidance and training were given to the complaints handlers dealing with SCARPs.
- 5.23. Sesame should have taken steps to ensure that final decision letters adequately addressed the subject matter of the complaint by ensuring that complaints were investigated diligently.
- 5.24. As a result of the matters set out in 5.18 to 5.21, Sesame failed to comply with DISP 1.2.16R and failed to act with due skill, care and diligence and failed to pay due regard to the interests of its customers and treat them fairly.

Failure to have in place appropriate management controls to ensure that complaints are handled appropriately

Decision of the Risk Committee

- 5.25. From October 2002 Sesame's Risk Committee became aware of a number of issues relating to SCARPs, including the fact that some maturing SCARPs would not return to customers the original amount invested.
- 5.26. In March 2003 following the publication of the FSA's Guidance Note 7, the Risk Committee received an internal compliance report which highlighted (i) the complexity of SCARPs, and (ii) the significant scope for consumer misunderstanding of the high level of investment risk attached to them (because the products were difficult to explain in writing). At this point, the Risk Committee decided that direct offer sales should be halted. The report, however, made no comment about whether action needed to be taken about historic direct offer sales of SCARPs or whether there would be any impact on the numbers of complaints. Nor did the Risk Committee decide to take any action regarding historical sales of direct offer SCARPs.
- 5.27. Also, in March 2003, Sesame's senior management (which included some members of the Risk Committee) became aware that the research teams at DBS and the other legacy networks had historically applied different criteria for the assessment of the risk rating of SCARPs. As a result of this, DBS had used a lower risk rating for these products than the other legacy networks.
- 5.28. Some members of the Risk Committee were also made aware in March 2003 of internal analysis of four SCARPs which were due to mature later in 2003. This

exercise projected loss figures of between 58.8% and 93.1% of the original capital invested. The report again mentioned the difference in risk ratings applied by the legacy networks and also reported that a direct offer letter for one of the products had been described as a "*tax free low risk*" plan.

- 5.29. In April 2003 Sesame established a sub-committee of its Risk Committee to focus on previous sales and complaints of SCARPs (SCARPs sub-committee). At this time the SCARPs sub-committee received a report which listed details of SCARPs sold by DBS between late-1999 and mid-2001. The report showed that a total of around £55 million had been invested through 3,500 cases. The majority of these SCARPs were due to mature before the end of 2003. The report made no comment on whether a review of past sales of SCARPs should be considered.
- 5.30. The SCARPs sub-committee received a note (in April 2003) which reported that compliance staff were establishing the extent to which the risk ratings attributed by DBS were inconsistent with those used by the other legacy networks. It was reported to the Risk Committee that the DBS research team may have understated the risks associated with the product in some of their communications to ARs.
- 5.31. A further update was provided to the Risk Committee in June 2003 on the work being undertaken to assess the potential liabilities in respect of SCARPs. The paper noted that direct offer letters for two particular products which had been promoted by DBS in pre-approved direct offer letters were entitled "*tax free low risk income and growth*" and queried why they had been given such a low risk rating. The paper also drew attention to large losses resulting from the downside gearing of the product.
- 5.32. At the June 2003 meeting of the Risk Committee a decision was made that any complaints arising from SCARPs should be dealt with using the existing complaints process. The basis of the decision was that the Risk Committee was aware of a small number of complaints and was of the opinion that this number did not point to widespread mis-selling. However, in order to satisfy itself, the Risk Committee asked for confirmation from the compliance operational team at the next meeting that the complaints process adopted by Sesame reflected both the FSA's rules and the views and guidance provided by the Financial Ombudsman Service (the FOS). Further updates to the Risk Committee failed to provide the assurance that the Committee had sought and the Committee did not raise the issue again.
- 5.33. At the next meeting of the Risk Committee in July 2003, the committee was told that the FOS had not decided any of the SCARPs complaints that had been referred to it from Sesame and that a report would be made to the committee once the results of those cases were known. The committee noted that, for all products, 80% of complaints referred to the FOS were decided in Sesame's favour.
- 5.34. In September 2003, the Risk Committee was told that one case was currently with the FOS and that Sesame was likely to lose it. The committee resolved to keep the issue under review.
- 5.35. In March 2004, it was reported to the Risk Committee that four out of the five final decisions made by the FOS in SCARPs complaints that had been referred to it from Sesame had been decided in Sesame's favour. The committee decided that further

final decisions should be awaited before determining what further action should be taken.

- 5.36. The information that the Risk Committee had in its possession (as detailed in paragraphs 5.25 to 5.35 above) should have prompted Sesame to take action to determine the full extent of the issues relating to SCARPs and ensure that its complaint handling processes did not lead to the inconsistent handling of complaints. In view of the information in its possession, it was not appropriate for the Risk Committee to wait for guidance from final decisions made by the FOS in SCARPs complaints referred to it from Sesame. The Risk Committee's failure to take appropriate action contributed towards complaint handlers rejecting valid customer complaints.

Conclusions

- 5.37. Sesame was required to put in place appropriate management controls and take reasonable steps to ensure that, in complying with DISP 1.2.1R, it handled complaints fairly, consistently and promptly. However, Sesame failed to react adequately to indications of problems concerning historical sales of SCARPs, namely:
- (1) differences in the risk ratings applied by the legacy networks;
 - (2) the halting of direct offer selling because it was recognised that SCARPs were high risk products that could not be easily explained in writing; and
 - (3) internal reports indicating high levels of losses (in some cases in excess of 90% of capital invested).
- 5.38. Sesame should have assessed the information it had in its possession, reviewed its complaints handling processes and taken further steps to ensure the differing views of the legacy networks about the risk profiles of SCARPs did not lead to the inconsistent handling of complaints.
- 5.39. As a result of the above, Sesame failed to comply with DISP 1.2.22R. Sesame also acted in contravention of Principle 2 and Principle 6 by failing to take appropriate steps to ensure that SCARPs complaints were handled fairly, consistently and promptly.

6. RELEVANT GUIDANCE ON PENALTY

- 6.1. The principal purpose of a financial penalty is to promote high standards of regulatory conduct by deterring firms who have breached regulatory requirements from committing further contraventions, helping to deter other firms from committing contraventions and demonstrating generally to firms the benefits of compliant behaviour.
- 6.2. The FSA's policy on the imposition of financial penalties is set out in Chapter 13 of the Enforcement Manual (ENF 13) which forms part of the FSA Handbook. ENF 13.3 of the Enforcement Manual sets out a non-exhaustive list of factors of particular relevance in determining the appropriate level of financial penalty.

- 6.3. The FSA considers all the relevant circumstances of the case in determining the level of financial penalty (if any) that is appropriate and proportionate in relation to the contravention in question. The FSA considers the following facts to be of particular relevance in this case.

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

- 6.4. The FSA considers that Sesame's conduct in respect of its SCARPs complaints handling constituted a serious breach of the FSA's requirements for the following reasons:

- (1) there was a material risk that the problems would not have been rectified if the FSA had not identified them and that Sesame's customers who had been mis-sold SCARPs by Sesame's legacy networks would not have received compensation (approximately £5.9 million) that they were entitled to; and
- (2) despite a number of measures taken by the FSA aimed at raising the awareness of the risks associated with SCARPs and raising standards in the area of complaints handling, Sesame did not take adequate account of this.

ENF 13.3.3(4) – The amount of profits accrued or loss avoided

- 6.5. There is no evidence that Sesame deliberately set out to accrue additional profits as a result of its failings. Sesame has concluded a review of SCARPs complaints, to the FSA's satisfaction, which has resulted in redress being paid where appropriate. As a result, Sesame has not benefited financially and has spent considerable sums on its remedial work.

ENF 13.3.3(5) – Conduct following the contravention

- 6.6. Sesame has co-operated fully with the FSA during the course of its investigation. It has also re-reviewed all SCARPs complaints in order to identify complaints where the complaint handling process had not been conducted in an adequate manner. Sesame has paid compensation to those customers where it has identified that the complaints handling process had been inadequate and the original SCARP had been mis-sold.
- 6.7. Following the FSA's report on its SCARPs thematic review, promptly and on its own initiative, Sesame engaged leading firms of accountants and solicitors to advise it on its procedures for handling SCARPs complaints and to train its complaint handlers in the handling of SCARPs complaints. Sesame organised a team of complaint handlers dedicated to SCARPs complaints. Sesame has satisfied the FSA that its current complaint handling procedures in relation to SCARPs are of satisfactory quality.

ENF 13.3.3(6) – Disciplinary record and compliance history

- 6.8. Several fines have been levied previously on Sesame and its legacy networks by the FSA or its predecessor self-regulatory organisations. In particular, Sesame's legacy networks were disciplined for breaches ranging from pension review failings, poor supervision of appointed representatives and misleading financial promotions.
- 6.9. It should be noted that Sesame was formed following a reorganisation that took place in 2003 which resulted in the merger of the networks mentioned in paragraph 4.1 and

the disciplinary record of the networks was inherited. Sesame's senior management is substantially different from those of the legacy networks that it inherited.

ENF 13.3.3(7) – Previous action taken by the FSA

- 6.10. The FSA has taken into account the penalties levied by the FSA against firms for mortgage endowment complaints and SCARPs mis-selling cases. It has paid particular regard to the number of complaints received by Sesame compared to these cases and the relevant amounts of redress paid by Sesame to customers.

7. DECISION MAKER

- 7.1. The decision which gave rise to the obligation to give this Final Notice was made by the Executive Settlement Decision Makers on behalf of the FSA.

8. IMPORTANT

- 8.1. This Final Notice is given to Sesame in accordance with Section 390 of the Act.
- 8.2. The following statutory rights are important.

Manner of and time for payment

- 8.3. The financial penalty must be paid in full by Sesame to the FSA by no later than 3 May 2007, 14 days from the date of the Final Notice.

If the financial penalty is not paid

- 8.4. If all, or any, of the financial penalty is outstanding on 4 May 2007, the FSA may recover the outstanding amount as a debt owed by Sesame and due to the FSA.

Publicity

- 8.5. 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.
- 8.6. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

- 8.7. For more information concerning this matter generally, you should contact David Bates of the Enforcement Division at the FSA (direct line: 020 7066 1446).

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William Amos
Head of Retail 1
Enforcement Division