Financial Services Authority

FINAL NOTICE

To: **UK Car Group Limited**

Of: **Nixon Street**
Rochdale
Lancashire
OL11 3JW

FSA Reference Number: **309050**

Date: **26 January 2012**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") gives UK Car Group Limited final notice about the imposition of a financial penalty:

1. THE ACTION

1.1. The FSA gave UK Car Group Limited ("UKCG") a Decision Notice on 20 January 2012 which notified it that, for reasons listed below and pursuant to section 206 of the Financial Services and Markets Act 2000 ("the Act"), the FSA has decided to impose a financial penalty of £91,000 on UKCG. This penalty is in respect of breaches of Principle 9 (customers: relationship of trust) of the FSA's Principles for Businesses ("the Principles"), between 1 April 2007 and 30 September 2008 ("the relevant period"), relating to the sale of Payment Protection Insurance ("PPI");

1.2. UKCG 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 £130,000 on UKCG.

1.3. UKCG has agreed that it will not be referring the matter to the Upper Tribunal (Tax and Chancery Chamber).

2. REASONS FOR THE ACTION

Sales of PPI

2.1. The FSA identified a number of failures by UKCG, in relation to the conduct of its appointed representative ("AR"), CC Automotive Group Limited trading as Carcraft ("Carcraft") in respect of monitoring of the sales of Payment Protection Insurance ("PPI").

2.2. The FSA considers that UKCG's actions fell short of the required standards in that UKCG failed to take reasonable steps to ensure the suitability of the advice and recommendations provided to its customers, in breach of Principle 9 (Customers: relationships of trust), by:

(1) failing to deal appropriately with concerns raised in internal audits;

(2) failing to properly document its recommendations to customers to purchase PPI.

2.3. The need for UKCG to effectively respond to issues identified by the systems and controls in place for its AR and to properly document its recommendations to customers was particularly important because during the relevant period, Carcraft sold 8,260 PPI policies from a national network of ten dealerships. UKCG was required to ensure that issues identified by the compliance monitoring procedures, in relation to Carcraft's PPI sales, were followed up and effectively addressed the risk of consumer detriment.

2.4. It is imperative that firms do not sell PPI unless the systems and controls which are in place are followed, to ensure that their customers are treated fairly. An important part of this is that firms must properly consider information provided to them and its implications on whether the firm (which includes any appointed representative) is complying with its regulatory obligations.

2.5. The FSA considers UKCG's breaches as serious and therefore considers that they merit the imposition of a financial penalty. These failings arose against a background of high profile communications and disciplinary actions by the FSA highlighting the need for firms to ensure they were meeting FSA

requirements. In mitigation however, in September 2007 and April 2008 respectively, the FSA had no cause for concern regarding UKCG's systems and controls in relation to PPI selling and UKCG's treating customers fairly ("TCF") strategy, following a thematic review of PPI sales and a TCF Assessment. Furthermore, following the investigation, the FSA had no cause for concern as to the design and structure of systems and controls at UKCG. UKCG's sales model and standard documentation were sound and the way the audit system was established by UKCG was robust. The findings and areas for concern and improvement were thorough and clearly stated in the audits; however the FSA found that issues continued to be identified by the Compliance and Legal Services Department ("the Compliance Department") in the audits during the relevant period and therefore the steps taken by UKCG did not appropriately address the failings which were repeatedly identified. The systems and controls were in place for UKCG which potentially could have addressed the concerns raised in the audits. UKCG also ceased PPI sales and have paid redress where appropriate.

3. RELEVANT STATUTORY PROVISIONS, REGULATORY REQUIREMENTS AND GUIDANCE

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

The FSA's communications about PPI

3.2. Before and during the relevant period, the FSA communicated to firms the importance of maintaining robust systems and controls when selling PPI to ensure that they are treating customers fairly. The FSA published information which highlighted areas where firms had not been complying with the FSA's requirements. The FSA expects firms who are authorised to familiarise themselves with publications relevant to their regulated activities.

3.3. During the relevant period, the FSA took Enforcement action against a number of firms in relation to their sales of PPI. These actions highlighted the importance of maintaining appropriate systems and controls in respect of PPI sales and the consequences of not doing so. These cases were well publicised and substantial financial penalties were imposed on the firms.

4. FACTS AND MATTERS RELIED ON

Background

4.1. UKCG's main business is used car sales.

4.2. On 14 January 2005, UKCG became authorised to carry on the following regulated activities in relation to non investment insurance contracts only:

(1) advising on investments (excluding pension transfers and pension opt outs);
(2) agreeing to carry on a regulated activity;
(3) arranging (bringing about) deals in investments;
(4) assisting in the administration and performance of a contract of insurance;
(5) dealing in investments as agent; and
(6) making arrangements with a view to transactions in investments.

4.3. Carcraft is one of three ARs of UKCG. It claims to be the UK's leading used car supermarket and traded during the relevant period through ten locations in England and South Wales. Beyond its main business of selling cars, Carcraft sold third party consumer finance packages, which included PPI, to customers to facilitate their vehicle purchases. The sale of PPI contributed only a small part of the turnover of the business.

4.4. During the relevant period between 72 and 117 sales staff carried out regulated activities at Carcraft.

The PPI products sold

4.5. Carcraft sold both regular and single premium PPI policies during the relevant period from several different providers. Policies providing different types of cover were available. The most extensive policies offered cover for, amongst other events, loss of life, accident, sickness and involuntary unemployment. Other levels of cover available included life cover, accident and sickness cover only and life cover only.

4.6. Carcraft sold PPI on an advised basis during the relevant period. Customers would visit one of Carcraft's showrooms and often decide to purchase a car using a credit finance facility. When Carcraft arranged finance for its customers, the finance had been sometimes split between two finance providers. In some instances, the purchase price of the car was split across two finance agreements and two different finance providers. In other instances, the purchase price of the car had been financed through one lender whilst the purchase price of the extended parts and labour guarantee or shortfall cover had been financed through another lender.

4.7. A finance and insurance ("F&I") adviser would discuss various insurance options with the customer, advise, and make recommendations. It was possible for a customer to take out separate PPI insurance (on a single and regular premium basis depending upon the specific lender) on each of the finance agreements.

4.8. It was therefore imperative that Carcraft ensured that its customers fully understood the nature of each the products they may have purchased. It was also imperative that Carcraft's records fully reflected the advice provided on each of the specific products sold in order to demonstrate the suitability of that advice.

4.9. Carcraft sold PPI with approximately a third of the consumer finance agreements it sold, amounting to 8,260 PPI policies during the relevant period. Approximately 60% of the PPI policies were regular premium and 40% were single premium policies. Some of Carcraft's business related to sub-prime borrowers. The total amount of premium paid by Carcraft's customers during the relevant period was approximately £3 million, of which £1,531,852 was gross income.

Background to UKCG's compliance function

4.10. During the relevant period, responsibility for compliance was delegated principally to dedicated compliance staff within UKCG on site and in the Compliance Department.

4.11. The Compliance Department conducted regular audits on all of Carcraft's branches during the relevant period ("the audits"). The purpose of the audits was to allow management to monitor Carcraft's F&I advisers to ensure they were selling PPI fairly and correctly. Following an audit, each site would be given a risk rating. The auditing process was conducted on a risk based approach.

4.12. The audits included reviews of documents completed by advisers, conversations with F&I advisers, monitoring of sales process by conducting role-plays, focus on areas of concern and plans to improve performance and questioning F&I managers as to whether they had carried out work recommended in previous audits.

4.13. The Compliance Department was responsible as part of the audit process for monitoring Carcraft's F&I advisers, advising, discussing, highlighting and reporting any compliance issues at UKCG. The audits would be provided to senior management who were then responsible for ensuring these issues were dealt with accordingly and the required remedial action taken.

4.14. UKCG was expected to respond when specific issues were escalated to them and to actively consider whether the steps being taken to respond to those issues were appropriate and adequate. UKCG did take a number of steps to address issues raised in the audits, for example:

(1) F&I advisers would have one on one feedback and training following an audit;

(2) Where it was considered that F&I advisers were not performing at the appropriate level, F&I advisers would be put on refresher training courses and made to re-take a compliance exam relating to PPI selling.

(3) F&I staff would be relocated to different sites in order to improve performance and ensure greater oversight by more senior management.

4.15. However, the FSA found that issues continued to be identified by the Compliance Department in the audits during the relevant period and therefore the steps taken by UKCG did not appropriately address the failings which

were repeatedly identified. Carcraft continued to fail to record in a sufficiently detailed fashion the advice provided to its customers. More generally concerns were also raised with regard to staff competence, monitoring of individual F&I advisers, provision of completed documentation to consumers and record keeping during the relevant period.

4.16. Throughout the relevant period UKCG did not adequately address, respond to or rectify the issues identified in the audits. This meant that, throughout the relevant period, UKCG's customers faced an increased risk of receiving unsuitable advice when purchasing either single and/or regular premium PPI policies in relation to their vehicle purchases.

5. ANALYSIS OF BREACHES

5.1. By reason of the facts and matters set out in paragraphs 4.5 to 4.15 above, the FSA considers that UKCG failed to take reasonable steps to ensure the suitability of its PPI recommendations, in breach of Principle 9, by:

(1) **failing to deal appropriately with concerns raised in internal audits; and**

(2) **failing to properly document its recommendations to purchase PPI.**

6. ANALYSIS OF THE SANCTION

Determining the level of the financial penalty

6.1. The FSA's policy on the imposition of financial penalties as at the date of this notice is set out in Chapter 6 of the Decision Procedures and Penalties Manual ("DEPP"), which forms part of the FSA Handbook. DEPP sets out the factors that may be of particular relevance in determining whether it is appropriate to impose a financial penalty. The criteria are not exhaustive and all relevant circumstances of the case will be taken into consideration.

6.2. In addition, the FSA has had regard to the corresponding provisions of Chapter 13 of the Enforcement Manual ("ENF") in force during the relevant period until 27 August 2007 and Chapter 7 of the Enforcement Guide ("EG"), in force thereafter. The relevant parts of this guidance are set out at Annex A.

6.3. The principal purpose of a financial penalty is to promote high standards of regulatory conduct by deterring firms who have committed breaches from committing further breaches, and helping to deter other firms from committing similar breaches, as well as demonstrating generally the benefits of compliant behaviour.

6.4. The FSA considers that the factors discussed below are particularly relevant in this case.

Deterrence

6.5. A financial penalty will deter other firms from allowing similar failings to occur and it will therefore promote the message to the industry that the FSA expects firms to maintain high standards of regulatory conduct. The fine will reinforce the message that the FSA expects firms and senior management to accept their regulatory responsibilities and ensure that they are organised in a way which ensures regulatory requirements are met.

6.6. A financial penalty is required to strengthen the message to the market that it is imperative that firms do not sell PPI unless they have appropriate systems and controls in place to ensure that their customers are treated fairly.

6.7. As communicated to the market in the FSA's thematic updates on the sale of PPI, and in line with its general approach, the FSA will increase the level of fines in PPI cases 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 higher fines for firms in the PPI market where standards fall below required levels.

The nature, seriousness and impact of the breaches in question

6.8. 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.

6.9. The FSA considers that the breaches are serious, meriting the imposition of a penalty because 8,260 PPI policies were sold during the relevant period. The breaches occurred over a period of 18 months.

6.10. Further, the significance of the weaknesses in UKCG's controls, namely the areas of concern raised in the internal audits not being addressed appropriately, were identified by the FSA, not by UKCG.

6.11. The FSA recognises that in October 2008, UKCG voluntarily stopped paying commission to sales staff for the sale of PPI, to reduce the risk of consumer detriment. This has been taken into account by the FSA in considering the appropriate level of penalty.

The extent to which the breach was deliberate or reckless

6.12. The FSA does not consider that UKCG acted in a deliberate or reckless manner.

The size, financial resources and other circumstances of the firm

6.13. There is no evidence to suggest that UKCG is unable to pay a penalty of the level decided.

The amount of profits accrued

6.14. The FSA has taken into account the profits UKCG made from Carcraft's sales of PPI during the relevant period. The total amount of premium paid by Carcraft's customers is projected to be approximately £3 million of which £1,531,852 is gross income.

6.15. UKCG has a prominent position in the used car market with a significant degree of public recognition. However, the PPI business was an additional activity, secondary to car sales and arranging credit. In terms of total profits made by UKCG, it is a very small part of its revenue (PPI sales accounted for 0.6% of revenue during the relevant period).

Conduct following the breaches

6.16. UKCG and its senior management have co-operated with the FSA in the course of the investigation.

6.17. The FSA recognises that UKCG implemented a number of changes after the end of the relevant period, including placing greater emphasis upon the oversight of the audits, increased oversight and supervision of F&I advisers. This improved their performance and assisted with addressing the failings identified by the Compliance Department.

6.18. The FSA recognises that UKCG agreed to suspend its commission payments to Carcraft's PPI sales staff and subsequently voluntarily varied its permission such that it no longer sells PPI.

Disciplinary record and compliance history

6.19. UKCG has been authorised to conduct insurance business by the FSA since 14 January 2005 and has not been the subject of previous FSA disciplinary action.

Previous action taken in relation to similar failings

6.20. 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.

6.21. In determining the appropriate level of financial penalty, the FSA has also had regard to the fact that the FSA has published materials which raised relevant concerns and set out examples of compliant behaviour. This increases the seriousness with which the FSA has viewed UKCG's breaches.

Financial penalty for PPI breaches

6.22. Having regard to the seriousness of the breach and the risk it posed to the FSA's statutory objectives of securing the appropriate degree of protection for consumers, the FSA has decided to impose a financial penalty of £130,000 on UKCG for its breaches of Principle 9.

6.23. As UKCG chose to finalise this matter at an early stage of the Enforcement process, the penalty is subject to a 30% discount under the terms of the FSA's settlement discount scheme. Accordingly, the financial penalty UKCG has to pay is £91,000.

6.24. The financial penalty shall be paid in 9 monthly instalments and must be paid in full by no later than 30 September 2012. The first instalment of £11,000 must be paid by UKCG to the FSA by no later than 31 January 2012. The following eight equal instalments of £10,000 each must be paid no later than 29 February 2012, 31 March 2012, 30 April 2012, 31 May 2012, 30 June 2012, 31 July 2012, 31 August 2012 and 30 September 2012.

6.25. If any instalment is not paid by the date due for the instalment then the financial penalty becomes payable immediately in full. The FSA may recover the outstanding debt owed by UKCG and due to the FSA.

7. DECISION MAKER

7.1. The decision which gave rise to the obligation to give this notice was made on behalf of the FSA by the FSA's Settlement Decision Makers.

8. IMPORTANT

8.1. This Final Notice is given under section 390 of the Act.

Publicity

8.2. 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 UKCG or prejudicial to the interests of consumers.

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

FSA contacts

8.4. For more information concerning this matter generally, contact Paul Howick of the Enforcement and Financial Crime Division of the FSA (direct line: 020 7066 7954/email: paul.howick@fsa.gov.uk).

Signed:

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Tom Spender

Head of Department

FSA Enforcement and Financial Crime Division

Annex A

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 an amount as it considers appropriate."

1.3. Section 39(3) of the Act states:

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

1.4. Section 39(4) of the Act states:

> "In determining whether an authorised person has complied with a provision contained in or made under this Act, or with a provision contained in any directly applicable Community regulation made under the markets in financial instruments directive, anything which a relevant person has done or omitted as respects business for which the authorised person has accepted responsibility is to be treated as having been done or omitted by the authorised person."

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 of rules and guidance ("the FSA Handbook").

2.2. In deciding on the action, the FSA has also had regard to guidance published in the FSA Handbook and set out in the Regulatory Guides, in particular in the Decision Policies and Procedures Manual ("DEPP") and the Enforcement Guide ("EG") which came into effect on 28 August 2007. The FSA has also had regard to the appropriate provisions of the Enforcement Manual ("ENF"), which was in force through some of the relevant period.

2.3. The guidance and policy that the FSA considers relevant to this case are set out below.

Principles for Businesses ("PRIN")

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

Principle 9 (customers: relationships of trust) 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."

Decision Procedure and Penalties Manual ("DEPP")

2.5. Guidance on the imposition and amount of penalties is set out in Chapter 6 of DEPP. Changes to DEPP 6 were introduced on 6 March 2010. The FSA has had regard to the appropriate provisions of DEPP that applied during the relevant period.

2.6. DEPP 6.1.2G provides that the principal purpose of imposing a financial penalty is to promote high standards of regulatory and/or market 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. Financial penalties are therefore tools that the FSA may employ to help it to achieve its regulatory objectives.

2.7. DEPP 6.5.1G(1) provides that the FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty (if any) that is appropriate and in proportion to the breach concerned.

2.8. DEPP 6.5.2G sets out a non-exhaustive list of factors that may be relevant to determining the appropriate level of financial penalty to be imposed on a person under the Act. The following factors are relevant to this case:

Deterrence: DEPP 6.5.2G(1)

2.9. When determining the appropriate level of financial penalty, the FSA will have regard to the principal purpose for which it imposes sanctions, namely to promote high standards of regulatory and/or market conduct by deterring persons who have committed breaches from committing further breaches and helping to deter other persons from committing similar breaches, as well as demonstrating generally the benefits of compliant business.

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

2.10. The FSA will consider the seriousness of the breach in relation to the nature of the rule, requirement or provision breached, which can include considerations such as the duration and frequency of the breach, whether the breach revealed serious or systemic weaknesses in the person's procedures or of the management systems or internal controls relating to all or part of a person's business and the loss or risk of loss caused to consumers, investors or other market users.

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

2.11. The FSA will regard as more serious a breach which is deliberately or recklessly committed, giving consideration to factors such as whether the breach was intentional, in that the person intended or foresaw the potential or actual consequences of its actions. If the FSA decides that the breach was deliberate or reckless, it is more likely to impose a higher penalty on a person than would otherwise be the case.

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

2.12. When determining the amount of penalty to be imposed on an individual, the FSA will take into account that individuals will not always have the resources of a body corporate, that enforcement action may have a greater impact on an individual, and further, that it may be possible to achieve effective deterrence by imposing a smaller penalty on an individual than on a body corporate. The FSA will also consider whether the status, position and/or responsibilities of the individual are such as to make a breach committed by the individual more serious and whether the penalty should therefore be set at a higher level.

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

2.13. The purpose of a penalty is not to render a person insolvent or to threaten a person's solvency. Where this would be a material consideration, the FSA will consider, having regard to all other factors, whether a lower penalty would be appropriate.

Conduct following the breach: DEPP 6.5.2G(8)

2.14. The FSA may take into account the degree of co-operation the person showed during the investigation of the breach by the FSA.

Other action taken by the FSA (or a previous regulator): DEPP 6.5.2G(10)

2.15. The FSA seeks to apply a consistent approach to determining the appropriate level of penalty. The FSA may take into account previous decisions made in relation to similar misconduct.

Insurance: Conduct of Business Rules ("ICOB") part of the FSA Handbook (in force for the initial part of the relevant period – 1 April 2007 to 5 January 2008)_

2.16. ICOB 4.3.1R states that:

(1) 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.

2.17. ICOB 4.3.2R states 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.

2.18. ICOB 4.3.6R states 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.

2.19. ICOB 4.4.1R states that:

(1) 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 the 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;

(b) or 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.

2.20. ICOB 4.4.7R states that

(1) An insurance intermediary that makes a personal recommendation to a customer must, if the customer acts on the person recommendation by concluding the non-investment insurance contract with that insurance intermediary:

(a) ……..retain a copy of the statement required by ICOB 4.4.1R(1)(b);

(2) …..the copy of the statement in (1)(a) …..must be retained for a minimum period of three years from the date on which the personal recommendation was made.

Insurance: Conduct of Business Sourcebook ("ICOBS") in force from 6 January 2008 to 30 September 2008 (end of relevant period)

2.21. ICOBS 5.2.2R states that:

(1) Prior to the conclusion of a contract, a firm must specify, in particular on the basis of information provided by the customer, the demands and the needs of that customer as well as the underlying reasons for any advice given to the customer on that policy.

(2) The details must be modulated according to the complexity of the policy proposed.

2.22. ICOBS 5.2.3R states that:

(1) A statement of demands and needs must be communicated:

(a) on paper or on any other durable medium available and accessible to the customer;

(b) in a clear and accurate manner, comprehensible to the customer...

2.23. ICOBS 5.3.1R states that a firm must take reasonable care to ensure the suitability of its advice for any customer who is entitled to rely upon its judgment.

Supervision manual ("SUP") Chapter 12 Appointed Representatives

2.24. SUP 12.3.1G provides:

"In determining whether a firm has complied with any provision in or under the Act such as any Principle or other rule, anything that an appointed representative has done or omitted to do as respects the business for which the firm has accepted responsibility will be treated as having been done or omitted to be done by the firm (section 39(4) of the Act)."

2.25. SUP 12.3.2 G provides:

"The firm is responsible, to the same extent as if it had expressly permitted it, for anything the appointed representative does or omits to do, in carrying on the business for which the firm has accepted responsibility (section 39(3) of the Act)."