
FINAL NOTICE

To: **Wolfson Microelectronics plc**
Of: **Westfield House**
26 Westfield Road
Edinburgh
EH11 2QB

Date: **19 January 2009**

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 Wolfson Microelectronics Plc ("Wolfson") a Decision Notice on 19 January 2009 which notified Wolfson that pursuant to section 91(1) of the Financial Services and Markets Act 2000 ("the Act"), the FSA had decided to impose a financial penalty of £200,000 on Wolfson. This penalty was discounted by 30% pursuant to the stage 1 early settlement discount scheme. Therefore the total penalty was reduced to £140,000.
- 1.2 This penalty is in relation to breaches of Disclosure and Transparency Rule 2.2.1 and Listing Principle 4, namely the obligation to release price sensitive information as soon as possible and to avoid the creation or continuation of a false market in listed securities.
- 1.3 Wolfson confirmed on 19 November 2008 that it will not be referring the matter to the Financial Services and Markets Tribunal.

1.4 Accordingly, for the reasons set out below and having agreed the facts and matters relied on with Wolfson, the FSA imposes a financial penalty on Wolfson in the amount of £140,000.

2. REASONS FOR THE ACTION

Background

2.1 The FSA has imposed a penalty as a result of Wolfson's delay in releasing news concerning the loss of a design slot ('supply arrangement') with a Major Customer for 16 days.

2.2 The Major Customer generated approximately 18% of Wolfson's revenue in 2007, more than any other client. On Monday 10 March 2008, at approximately 23:00 GMT (16:00 PST) Wolfson met the Major Customer and were told that they would not be supplying parts for future editions of Products A and B, two of the Major Customer's products (the "Negative News"). This represented a loss of \$20m to Wolfson, or 8% of Wolfson's forecast revenue for the year.

2.3 At the same meeting Wolfson were advised to expect increased demand for the supply of parts for the Major Customer's Product C and that Wolfson's overall revenues from the Major Customer in 2008 should be "flat year on year" (the "Positive News").

2.4 On Wednesday 12 March, Wolfson sought advice on whether they were required to make an announcement from Makinson Cowell, their Investor Relations advisors. On Thursday 20 March the Wolfson board of directors ("the Board") requested that a legal opinion was sought as to whether Wolfson was required to announce the Negative News. On Thursday 27 March 2008 at 07:00 Wolfson announced the Negative News and their share price closed at approximately 18% lower than the previous day.

2.5 On the basis of the facts and matters described below the FSA is satisfied that:

- a) Due to the significance of the business relationship with the Major Customer, the loss of the Products A and B business and the related impact on revenue, the Negative News constituted inside information and as a result a disclosure obligation arose under Disclosure and Transparency Rules 2.2.1 ("DTR 2.2.1") when Wolfson became aware of the Negative News on 10 March 2008. The failure to disclose until 27 March 2008 resulted in a breach of this rule.
- b) The failure to disclose led to the creation of a false market in Wolfson's shares from 10 March 2008 until 27 March 2008. As a result there was also a breach of Listing Principle 4.

Relevant Statutory Provisions and Guidance

2.6 Pursuant to Part VI of the Act, the FSA makes the Listing, Prospectus and Disclosure and Transparency Rules and is responsible for the official listing of securities in the UK. Disclosure rules under Part VI require an issuer to publish specified inside information (section 96A of the Act). Between 10 March 2008 and 27 March 2008 ("the Material Time"), these rules set out the requirements for the admission of securities to the Official List and the continuing obligations of companies whose securities are so admitted.

2.7 For purposes of the Disclosure and Transparency Rules, “inside information” is defined in section 118C of the Act as:

“(2) ... *information of a precise nature which –*

(a) *is not generally available,*

(b) *relates, directly or indirectly, to one or more issuers of the qualifying investments or to one or more of the qualifying investments, and*

(c) *would, if generally available, be likely to have a significant effect on the price of the qualifying investments or on the price of related investments. ...*

(5) *Information is precise if it –*

(a) *indicates circumstances that exist or may reasonably be expected to come into existence or an event that has occurred or may reasonably be expected to occur, and*

(b) *is specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or that event on the price of qualifying investments or related investments.*

(6) *Information would be likely to have a significant effect on price if and only if it is information of a kind which a reasonable investor would be likely to use as part of the basis of his investment decisions.”*

2.8 The FSA is authorised under section 91(1) of the Act to exercise its power to impose a financial penalty where it is satisfied that an issuer has contravened any provision of the Part VI rules.

2.9 The Disclosure and Transparency Rules for listed companies are set out in the FSA’s Handbook. DTR 2.2.1 states that: “*An issuer must notify a RIS [Regulatory Information Service] as soon as possible of any inside information which directly concerns the issuer unless DTR 2.5.1 applies.*”¹

2.10 At the Material Time the FSA had, pursuant to section 157 of the Act, published guidance on Disclosure Rules obligations in the Handbook which would have been available to Wolfson. In deciding to take the action set out in this notice, the FSA has had regard to specific guidance on the identification of inside information set out in guidance DTR 2.2.3G to DTR 2.2.8G.

2.11 Chapter 7 of the Listing Rules sets out the Listing Principles which apply to every listed company with a primary listing of equity securities. The purpose of the Listing Principles is to ensure that listed companies pay due regard to the fundamental role they play in maintaining market confidence and ensuring fair and orderly markets.

2.12 Listing Principle 4 provides that “*a listed company must communicate information to*

¹ DR 2.5.1 is not relevant in this case.

holders and potential holders of its listed equity securities in such a way as to avoid the creation or continuation of a false market in such listed equity securities.”

- 2.13 The FSA regards the continuing obligation requirements of the Disclosure and Transparency Rules and Listing Principles as a fundamental protection for shareholders. These requirements are designed to promote full disclosure to the market of all relevant information on a timely basis to ensure that all users of the market have simultaneous access to the same information. Observance of these continuing obligations is essential to the maintenance of an efficient, fair and orderly market in securities and to maintaining confidence in the financial system.

3. FACTS AND MATTERS RELIED UPON IN THE FINAL NOTICE

Background

- 3.1 Wolfson listed on the London Stock Exchange in 2003. Wolfson describes its business as follows: *“Wolfson supplies high performance mixed-signal semiconductors to the consumer electronics market in digital consumer goods. Our semiconductors (or chips) are found at the heart of many consumer products including mobile phones, portable media players, gaming devices, digital still cameras and satellite navigation devices”.*

Summary Timeline

- 3.2 There was a 16 day delay (10 trading days) by Wolfson in announcing the Negative News.
- 3.3 The earliest that Wolfson could have announced the Negative News was Tuesday 11 March 2008 (Day 1). Wolfson disclosed the Positive News and Negative News to its investor relations advisers (Makinson Cowell) on Day 2; to the Wolfson Chairman of the board of directors (“the Chairman”) on Day 2; to other members of the Board on Day 4 in a Board memo which was distributed in advance of the Board meeting held on Day 9; to its legal advisers (Heller Ehrman (Europe) LLP (“Heller”)) on Day 10; and to its corporate brokers (Citigroup Global Markets Limited (“Citigroup”) and JPMorgan Cazenove Limited (“Cazenove”)) on Day 16. On Day 17 (Thursday 27 March 2008) at 07:00 Wolfson announced the Negative News and their share price closed at approximately 18% lower than the previous day.

Wolfson’s Initial Reaction

- 3.4 On Tuesday 11 March 2008, Wolfson analysed internally the impact of the Negative News and the Positive News on their forecast revenue and considered their obligations under the DTR. Wolfson’s understanding was that the *“current view of the revenue hit [in relation to the Negative News] for 2008 is in the region of ... \$20m all H2 08 [second half of 2008]”*. After increasing the forecast revenue attributable to Product C, and revenues expected from other clients, Wolfson calculated that they would still meet 2008 market revenue expectations.
- 3.5 In relation to whether an announcement should be made, an email from a senior Wolfson employee on 11 March 2008 (13:58) stated: *“My view is we need to say something fairly soon”*; the same employee’s email of 12 March 2008 (12:01) stated:

“I think the [Product A] news on its own, regardless of forecast, is inside information. Question then becomes do we soften any announcement by still forecasting solid growth”.

Makinson Cowell Advice

- 3.6 On Wednesday 12 March, Wolfson asked their Investor Relations advisor, Makinson Cowell, whether they should make an announcement. Makinson Cowell were not Wolfson’s legal advisors or corporate brokers. Citigroup and Cazenove were the corporate brokers at the time but were not consulted by Wolfson. Makinson Cowell state that their advice was that, given that they understood that Wolfson’s revised 2008 revenue forecast remained close to the average of market expectations and that there would be no material change to the source or make-up of the revenue, no obligation of disclosure under the Disclosure and Transparency Rules had arisen. Wolfson’s summary of Makinson Cowell’s advice was set out in an email from a Wolfson senior employee to other senior Wolfson employees on 12 March 2008 (18:13) and in a memorandum from a senior Wolfson employee to the Board issued on 14 March 2008 (“the Board Memo”). Makinson Cowell did not see the e-mail, but were sent a copy of the Board Memo on 18 March. Makinson Cowell reviewed and briefly commented on the Board Memo the next day.
- 3.7 Wolfson’s summary of Makinson Cowell’s advice, as set out in the email from a Wolfson senior employee to other senior Wolfson employees on 12 March 2008 (18:13) stated the reasons for non-disclosure as follows:

Spoke with [2 employees at Makinson Cowell]. [Makinson employee] has done more research and has now seen DTR 2.2 and the 'reasonable investor' test. I sent around those guidelines earlier.

He noted that one could certainly make a case that given the market in which we currently operate in being pretty negative at the moment, and the fact that it is a significant customer at issue, and with a significant design loss on the face of it, that a reasonable investor would use the new information in their investment decisions and therefore the news could be viewed as price sensitive information which we should announce.

But on balance, he feels that there is a flip side which more than outweighs the argument above:

- revenues from other customers and from [Product C] are now expected to be significantly higher than the market anticipatesmitigating the lost revenues from [Products A and B]

- still have a reasonable degree of confidence over revenue consensus -\$247/248m having reviewed the data at a senior level

- all companies work within the constraints of customer confidentiality arrangements as we have with the Major Customer so there is a delicate balance between practically announcing something to do with the Major Customer when on the other hand we are constrained to do so by NDA's

- the market in its current state is bound to over-react on the negative which in turn creates a false market- ie consensus sales would likely fall and this is not useful for a reasonable investor

- finally we don't announce positive news which could be price sensitive on the up-side

3.8 The justifications for initial non-disclosure in the Board Memo prepared in advance of the Board Meeting are:

“Disclosure of inside information (DTR 2.2)

The disclosure of inside information is regulated by the FSA, and DTR (2.2) deals with requirements to disclose inside information to RNS.

Broadly, an issuer is required to determine if inside information could be deemed as price sensitive and whether the information in question would be used by a reasonable investor in assessing their investment choices. The information that is likely to be considered relevant includes that which effects, interalia [sic]:

The performance or the expectation of performance of the issuer’s business

The financial condition of the issuer

Major new developments in the business

It is also worth noting that given the negative sentiment towards the tech sector in the market at the moment, and with the question of the Tier1 relationships/ retention raised quite frequently by shareholders and analysts, and indeed noted by many of them as a material factor which could result in downgrades if there was a design loss, then a reasonable investor would take into account the information about loss of next gen [generation] [of Products A and B] (being a major new development in the business) in their investment decisions. Therefore the news could be viewed as price sensitive information which we should announce.

But there are commercial reasons to not announce which more than outweigh the argument above:

- *Wolfson never announces design wins or losses to the market and has not done so in its history*
- *revenues from other customers and [Product C] are now expected to be significantly higher than the market anticipates mitigating the lost revenues from [Products A and B]*
- *Wolfson still have confidence at this time in meeting the average of the sell side analyst forecast for 2008 being circa \$248m*
- *we are required to work within the constraints of customer confidentiality arrangements that we have with the Tier1 Customer so there is a delicate balance between practically announcing a design loss now, and potentially providing price sensitive information as to [The Major Customer’s] future product line up/revenue plans ([Major Customer] are also a listed company with obligations of their own)*
- *the market in its current state will most certainly over-react on the negative*

which in turn creates a false market - i.e. consensus sales would likely fall and this is not useful for a reasonable investor given our current confidence at \$245 - \$250m revenues

- *we don't announce positive news which could be price sensitive on the up-side. Up-side price sensitive information is also useful to a reasonable investor as a reasonable investor has other opportunities to "maximise his economic self interest"*

Conclusion

Based on the above, having considered requirements to disclose information, but taking into account up to date forecasts and financial data, the recommendation is not to disclose at this juncture.

However, there is some risk of a leak from sources not linked to Wolfson, and therefore it is advised that a draft form of words is agreed in advance with [the Major Customer] which is held (and updated as required) and can be used immediately if there is a leak which starts to directly impact upon the share price)

(Board information – Makinson Cowell advised and agree with the above; Citigroup, Cazenove, Corfin & Heller Ehrman have not yet been asked for their view and have not advised)"

- 3.10 Concerning the Board Memo quoted above, Wolfson states that the use of the words "commercial reasons" was a reference to the reasons for non-disclosure set out in the email of 12 March and not intended to mean that business reasons outweigh regulatory obligations to disclose inside information.
- 3.11 Concerning the Board Memo quoted above, Wolfson states that it considers its regulatory obligations to disclose information with respect to all design wins or losses as evidenced by the fact that Wolfson considered its regulatory obligations in this instance. Wolfson states that, to the extent language in the Board Memo suggests otherwise, this must be taken in the context of the fact that Wolfson had no previous design wins or losses that required disclosure.

Advice From Other Advisors

- 3.12 Following the advice from Makinson Cowell, Wolfson decided not to announce the Negative News and to discuss the issue at a board meeting on Thursday 20 March ("the Board Meeting"). In the meantime, Wolfson drafted an announcement to be released if the market became aware of the Negative News and Wolfson's share price fell as a result.
- 3.13 At the Board Meeting all but one of the Board agreed that, based on the Wolfson summary of the advice that had been provided by Makinson Cowell, an announcement of the Negative News was not required. One member of the Board thought Wolfson should announce the Negative News immediately because of the importance the market placed on the relationship between Wolfson and the Major Customer. The Board therefore decided to seek a legal opinion.

- 3.14 On Thursday 20 March at 17:00, Wolfson sent a memo to their legal advisor, Heller. Wolfson requested a telephone conference with Heller on the morning of Tuesday 25 March (the first working day after the Easter break).
- 3.15 On Tuesday 25 March at 09:00, Heller advised Wolfson to make an announcement. Wolfson state that *“Heller Ehrman advised that Wolfson should announce, noting the [Major Customer] relationship as the key factor despite the fact that revenue would not be significantly below market consensus for 2008. Heller Ehrman referred to the FSA decision regarding MyTravel. Heller Ehrman noted that the brokers’ views should be sought on the likely impact on the share price.”*
- 3.16 On Wednesday 26 March 2008 at 12:00, Cazenove and Citigroup were consulted for the first time during a conference call; both agreed with Heller’s advice. Cazenove stated that the Negative News should be announced *“as a matter of urgency”*. Wolfson state that they did not seek advice from their brokers earlier because they were concerned the Negative News may leak due to *“inherent conflicts that exist in such businesses. Citigroup and Cazenove act as both brokers and market makers in Wolfson shares.”*
- 3.17 Cazenove state that during this conference call they advised Wolfson that the Negative News was likely to be price sensitive because: *“We were aware from conversations with investors and from attending Wolfson’s results presentations over a number of years of the importance the market placed on Wolfson’s relationship with the Major Customer.”*
- 3.18 *Notwithstanding the message from the Major Customer that revenues from the Design Loss would be replaced by higher volumes in its next generation product, we felt that investors would be likely to view the Design Loss as significant in terms of (i) Wolfson’s status with the Major Customer; (ii) implications for potential market share loss with other customers or with the Major Customer in the future; and (iii) implications for revenues post 2008 even if the previously anticipated level of 2008 revenues could be achieved.”*
- 3.19 Citigroup state that: *“The 12pm conference call lasted approximately 1 hour and helped clarified [sic] a number of elements of the draft announcement that had been received at 11.14am; namely 1) that [the Major Customer] was the company identified as the Tier 1 customer, 2) that [the Major Customer] were indicating that chip revenues with Wolfson would be broadly unaffected by this development as additional volume was required on other [the Major Customer] products,..., 4) that it was unclear as to why Wolfson had been de-selected from this particular product, 5) that at this stage the longer term financial effects were difficult to quantify, 6) that the rest of the Wolfson business was performing well, and 7) that management saw no need for any change to FY08 revenue consensus forecasts for the group.*
- 3.20 *Nevertheless, given the importance that the market places on [the Major Customer] as a customer of Wolfson, our view was that, on balance, the development did constitute price-sensitive information and therefore required announcement. This was not a straightforward judgement given that the company did not believe the development warranted a change to forecasts, but rather revolved around an assessment of the possible impact on market sentiment.”*

- 3.21 On Wednesday 26 March, Wolfson sought the Board and the Major Customer's approval for the release.

The Announcement

- 3.22 On Thursday 27 March at 07:00, Wolfson announced the Negative News and their share price closed approximately 18% lower than the previous day.

Analysis of the Breaches

- 3.23 By 11 March 2008, Wolfson were aware they would not be supplying parts for future editions of Products A and B. For the reasons set forth in the responses of Citigroup and Cazenove (detailed above), this was information that would, if generally available, be likely to have a significant effect on the Wolfson share price and was information which a reasonable investor would be likely to use as part of the basis of his investment decisions. The information was inside information and Wolfson therefore had an obligation to notify a Regulatory Information System (RIS) as soon as possible. By not releasing the information until Thursday 27 March at 07:00, Wolfson breached DTR 2.2.1 in that Wolfson failed to release inside information as soon as possible and Listing Principle 4 in that Wolfson failed to communicate information in such a way as to avoid the creation or continuation of a false market.

4. CONCLUSIONS

Inside information

- 4.11 The loss of the arrangement to supply parts for future editions of Major Customer's Products A and B was inside information as defined under section 118C of the Act:
- (a) The information was precise. The loss of the supply arrangement was certain. The impact of the loss of the supply arrangement was capable of calculation and had been calculated by Wolfson. The information was specific enough to enable a conclusion to be drawn that it was likely to have a negative effect on Wolfson's share price and Wolfson recognised this.
 - (b) The information was not generally available. There is no evidence that the market was aware of the loss of the supply arrangement.
 - (c) The information related directly to Wolfson.
 - (d) The information was likely to have a significant effect on the price of Wolfson shares. It was information of a kind which a reasonable investor would be likely to use as part of the basis of his investment decisions. The loss of the contract would reduce Wolfson's forecast revenue by 8%. The business relationship with the Major Customer was regarded as a significant relationship for Wolfson by the market. Wolfson recognised that the information was likely to have a significant price effect.
- 4.12 The FSA is therefore satisfied that the loss of the arrangement to supply parts for future editions of Products A and B was inside information as defined under section 118C of the Act.

The justification for non-disclosure

- 4.13 The key issue in this case is the failure to disclose price sensitive information as soon as possible. Some of the reasons used to justify the decision to withhold the Negative News are that: (a) Wolfson was concerned about possible “over reaction” by the market; (b) Wolfson offset the Negative News with revised revenue forecasts; and (c) Wolfson was prohibited from releasing related Positive News pursuant to a non-disclosure agreement with the Major Customer. Each of these justifications and why they are unacceptable is addressed in turn.
- 4.14 Concern about market over reaction to the news. The Board Memo indicates that Wolfson were aware that the Negative News would be likely to cause Wolfson’s share price to fall but chose not to announce as Wolfson believed that a reduced share price would not accurately represent the value of the company. Companies cannot refuse to disclose negative price sensitive information because it would cause a fall in the share price or result in the share price not representing the ‘true’ value of the company.
- 4.15 Offsetting. The Board Memo states: “*revenues from other customers and from [Product C] are now expected to be significantly higher than the market anticipates.*” This statement indicates that Wolfson believed that previously unavailable or unidentified revenues would offset the loss and therefore negate the need to announce. The FSA has made clear in the April 2004 UKLA List! Publication (“List!”) and in past Enforcement cases that justifying non-disclosure of information by offsetting negative and positive news is not acceptable. Companies should disclose both types of information and allow the market to determine whether they cancel each other out.
- 4.16 Confidentiality agreements. The Board Memo states: “*we are required to work within the constraints of customer confidentiality arrangements that we have with [the Major Customer] so there is a delicate balance between practically announcing a design loss now, and potentially providing price sensitive information as to [the Major Customer]’s future product line up/ revenue plans ([Major Customer] are also a listed company with obligations of their own)*”. One of Wolfson’s initial reasons for not announcing the negative news was that non-disclosure agreements with the Major Customer meant they could not announce the increased demand in parts for Product C. We note that the announcement was ultimately drafted to refer anonymously to balancing positive factors and the Major Customer approved the announcement. In any event, however, companies must not withhold price sensitive information due to confidentiality agreements with their clients.

The advice from Makinson Cowell

- 4.17 Wolfson state that they relied on the advice of Makinson Cowell in deciding not to announce the Negative News. However:
- (a) Primary responsibility for compliance with the requirements of DTR lies with Wolfson as the issuer;
 - (b) The advice was wrong, for the reasons set out above; and
 - (c) The advice was not legal advice, nor was it from Wolfson’s corporate brokers.

4.18 Accordingly, it was not appropriate for Wolfson to rely upon the advice given by Makinson Cowell.

Conclusion on the breaches

4.19 A disclosure obligation arose under DR 2.2.1 on 10 March 2008. Failure to disclose this information until 27 March 2008 was a breach of this rule. The failure to disclose this information led to the creation of a false market in Wolfson's shares from 10 March to 27 March 2008. As a result there was also a breach of Listing Principle 4.

5. SANCTION

5.11 The FSA's policy on the imposition of financial penalties and public censures is set out in Chapter 6 of the Decision Procedure and Penalties Manual. The principal purpose of financial penalties is to promote high standards of market conduct by deterring those who have committed breaches from committing further breaches, helping to deter others from committing similar breaches and demonstrating generally the benefits of compliant behaviour. The FSA considers that the seriousness of Wolfson's breach of DR 2.2.1 and Listing Principle 4 merits a financial penalty.

Mitigating Factors

5.12 The mitigating factors which have been taken into account in determining the financial penalty to be imposed on Wolfson include the following:

- (a) Wolfson has fully co-operated with the FSA's investigation.
- (b) No previous disciplinary action has been taken against Wolfson.
- (c) Wolfson considered the impact of the Negative News on their revenue in a timely fashion.
- (d) Wolfson considered their obligations under the DTR in a timely fashion.
- (e) Wolfson's initial reaction appears to have been that they should announce the Negative News.
- (f) Wolfson sought the advice of Makinson Cowell in good faith and followed it.
- (g) Wolfson appear to have genuinely believed that they would meet the 2008 revenue expectations despite the Negative News.
- (h) Wolfson discussed the Negative News at the Board Meeting and then decided to take legal advice.
- (i) Wolfson followed the legal advice and released an announcement.
- (j) There was no intention deliberately to mislead the market.

Aggravating Factors

5.13 The aggravating factors which have been taken into account in determining the financial penalty to be imposed on Wolfson include the following:

- (a) At the Material Time Wolfson's shares formed part of the FTSE Small Cap Index and FTSE techmark 100 Index and contravention of DTR 2.2.1 and Listing Principle 4 impacted on the orderliness of the capital markets and public confidence in those markets;
- (b) The delay was extensive, from 11 - 26 March 2008, a period of 16 days in total and 10 trading days, during which time there was a false market in Wolfson shares;
- (c) The initial justifications for non-disclosure were inappropriate for the reasons outlined above under the headings "Concern about market over reaction to the news", "Off-setting", and "Confidentiality agreements";
- (d) The impact of the Negative News on Wolfson's revenue was significant as the estimated \$20m reduction represented a loss of 8% of Wolfson's total forecast revenue for 2008;
- (e) Wolfson had been told frequently by shareholders and analysts that the relationship with the Major Customer was significant and that a loss such as that which occurred could result in downgrades; and
- (f) There appears to have been a lack of urgency in Wolfson making the announcement, for example:
 - (i) Wolfson failed to bring forward the Board Meeting;
 - (ii) Wolfson did not disclose the Negative News to their legal advisors for 10 days;
 - (iii) Wolfson did not disclose the Negative News to their brokers for 16 days; and
 - (iv) Wolfson were advised to release an announcement in the conference call with Heller at 09:00 on Tuesday 25 March; they did not release the announcement until 07:00 on Thursday 27 March, almost 2 days later.

Penalty Amount

5.14 In determining the financial penalty the FSA has considered the need to deter Wolfson and others from engaging in this type of activity. The FSA has also had regard to penalties in other similar cases. The FSA considers that a financial penalty of £200,000 is appropriate. This penalty is discounted by 30% pursuant to the stage 1 early settlement discount scheme. Therefore the total penalty will be reduced to £140,000.

6. DECISION MAKERS

6.1 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.

7. IMPORTANT

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

Manner of and time for Payment

7.2. The financial penalty must be paid in full by Wolfson to the FSA by no later than 2 February 2009, 14 days from the date of the Final Notice.

If the financial penalty is not paid

7.3. If all or any of the financial penalty is outstanding on 2 February 2009, the FSA may recover the outstanding amount as a debt owed by Wolfson and due to the FSA.

Publicity

7.4. 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.

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

FSA contacts

7.6. For more information concerning this matter generally, you should contact Kevin K. Batteh on 020 7066 0176 or Aidan O’Conaill on 0207 066 4248 of the Enforcement Division of the FSA.

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Tracey McDermott
Head of Department
FSA Enforcement Division