
FINAL NOTICE

To: Mr Christopher Allan Goekjian

C/o: Russell Jones & Walker
60-80 Grays Inn Road
London
WC1X 8NH

Date: 22 September 2003

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

THE PENALTY

The FSA gave you a decision notice on 16 July 2003 which notified you, Christopher Allan Goekjian ("Mr Goekjian"), that, pursuant to section 66 of the Financial Services and Markets Act 2000 ("the Act"), the FSA had decided to impose a financial penalty on you in the amount of £150,000.

You made a reference to the Financial Services and Markets Tribunal on about 13 August 2003, which has been withdrawn by agreement.

Accordingly, for the reasons set out below, which are admitted by you, the FSA imposes a financial penalty on you in the amount of £150,000.

REASONS FOR THE PENALTY

Summary

1. At all material times, Mr Goekjian was the Chief Executive Officer ("CEO") of Credit Suisse First Boston International (formerly known as Credit Suisse Financial Products) ("CSFP"). From 1 March 1995, Mr Goekjian was also registered with the Securities and Futures Authority Limited ("SFA") as CSFP's Senior Executive Officer ("SEO").

2. It appears to the FSA that, in breach of Principle 2 of the FSA's former Statements of Principle ("Former Principles"), Mr Goekjian failed in the period from October 1996 to July 1997 to act with due skill, care and diligence to detect, to prevent and to remedy misconduct by CSFP. Specifically, during 1996 and 1997, CSFP engaged in conduct designed deliberately to mislead the Japanese National Tax Administration Agency, the Japanese tax authority ("the NTA"), as to the nature and scope of the activities being carried out on CSFP's behalf in Japan ("CSFP's misconduct").
3. It also appears to the FSA that during this period Mr Goekjian did not organise and control CSFP's internal affairs in a responsible manner, thereby breaching Former Principle 9 and failing to act so as to prevent CSFP from breaching Former Principle 9.
4. In particular, Mr Goekjian failed in the period from October 1996 to July 1997 to take any or any reasonable steps to ensure that:
 - (a) he properly supervised and monitored the activities of staff to whom he had delegated matters relating to the conduct of the audit by the NTA;
 - (b) warning signals of CSFP's misconduct were picked up, followed up and investigated; and
 - (c) appropriate, swift and decisive action was taken to halt and/or prevent and/or remedy CSFP's misconduct.
5. Accordingly it appears to the FSA that Mr Goekjian is guilty of misconduct. For the reasons set out below, the FSA is satisfied that it is appropriate in all the circumstances to impose on Mr Goekjian a penalty of £150,000.

Relevant Statutory Provisions

6. The FSA is authorised to exercise the disciplinary powers contained in section 66 of the Act, which includes the following:

"(1) The Authority may take action against a person under this section if -

 - (a) it appears to the Authority that he is guilty of misconduct; and*
 - (b) the Authority is satisfied that it is appropriate in all the circumstances to take action against him."*

"(3) If the Authority is entitled to take action under this section against a person, it may ... impose a penalty on him of such amount as it considers appropriate".
7. Article 9 of the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Civil Remedies, Discipline, Criminal Offences etc.) (No 2) Order 2001 ("the 2001 Transitional Provisions Order") authorises the FSA to exercise the powers contained in section 66 of the Act in respect of breaches of the SFA's Rules which occurred before 1 December 2001 as if the person concerned was guilty of misconduct within the meaning of section 66 of the Act.
8. When exercising its powers, the FSA seeks to act in a way it considers most appropriate for the purpose of meeting its statutory objectives, which are set out in

section 2(2) of the Act. The FSA considers that imposing on Mr Goekjian a penalty of £150,000 meets the market confidence objective: that is, maintaining confidence in the financial system. In order to sustain confidence in the UK financial system, the FSA considers it essential that confidence be maintained in the competence of persons occupying senior positions in the management of UK authorised financial institutions. Mr Goekjian was at the material time a very senior such manager.

9. The principles underlying the FSA's approach to the exercise of its enforcement powers are set out in *ENF 1.3.1* of the FSA's Enforcement manual, and the purposes of imposing financial penalties are set out in *ENF 13.1.2* of the FSA's Enforcement manual. The FSA considers the action it has decided to take to be a proportionate exercise of its enforcement powers and consistent with the relevant SFA policy and the FSA's own publicly stated policies, which are set out below.

Relevant SFA Rules

10. By SFA Rule 9-1, SFA's Rules included the Former Principles.
11. Under SFA Rule 7-23A(3)(a), an act of misconduct included a breach of SFA's Rules, and so of the Former Principles.
12. Prior to 1 December 2001, SFA registered persons were obliged not to commit any act or omission which placed their firm in breach of SFA's Rules (SFA Rule 2-24(2)).
13. By SFA Rule 2-24(3), the Former Principles (which applied directly to firms) also applied directly to SFA registered persons, and therefore to Mr Goekjian.
14. Under SFA Rule 7-23A(3)(d), an act of misconduct included an act or omission of a registered person which caused a firm to be in breach of SFA's Rules. In the FSA's view, an SFA registered person's failure to act to prevent a firm from breaching SFA's Rules, when there is a duty so to act, causes that breach.
15. Where the SFA Enforcement Committee considered that an SFA registered person had committed an act of misconduct, it could institute disciplinary proceedings and serve a Notice on that SFA registered person setting out the acts of misconduct.
16. The Notice was accompanied by details of such penalties, which could include a reprimand, a severe reprimand and/or a fine, as the SFA Enforcement Committee considered appropriate (SFA Rules 7-24A(1) and 7-30(3)).
17. Under SFA Rule 7-30(3)(c), a fine which could be imposed on an individual SFA registered person was unlimited in amount.
18. Former Principle 2 was in the following terms:

"A firm should act with due skill, care and diligence"
19. Former Principle 9 stated:

"A firm should organise and control its internal affairs in a responsible manner, keeping proper records, and where the firm employs staff or is responsible for the conduct of investment business by others, should have

adequate arrangements to ensure that they are suitable, adequately trained and properly supervised and that it has well-defined compliance procedures."

20. In addition, Appendix 38 of the SFA's Rules in force at the material time ("Existing Appendix 38") set out guidance as to the standards for compliance with the SFA's rules and regulations and all other regulatory requirements applicable to the business of an SFA authorised firm (such as CSFP). By paragraph 5 of Existing Appendix 38, the prime responsibility for compliance with the SFA's rules and regulations and all other regulatory requirements applicable to the business lay in particular with the SEO (in CSFP's case, Mr Goekjian).
21. Paragraph 6 of Existing Appendix 38 provided that, at all levels of seniority within the authorised firm, compliance with regulatory requirements and the observance of high standards of business conduct should become a state of mind and the accepted discipline, in common with compliance with other codes of practice and ethical standards which were part of every day business.
22. With effect from 1 June 1998, Existing Appendix 38 was amended ("Revised Appendix 38") and, by paragraphs 6A(d) and (g) of Revised Appendix 38, Mr Goekjian was expected to take reasonable steps designed to ensure that:
 - (i) CSFP had in place relevant internal controls which were working effectively; and
 - (ii) warning signals of problems emerging in the business were followed up, questions were asked and appropriate action was taken.
23. Paragraphs 6A(d) and (g) of Revised Appendix 38 (even though Revised Appendix 38 was not in force at the material time) identified standards which were in any event expected of Mr Goekjian under Existing Appendix 38. Further, the standards set out in Existing Appendix 38 and in paragraphs 6A(d) and (g) of Revised Appendix 38 reflected good practice which was expected of an SFA registered person in the position of Mr Goekjian during 1996 and 1997, in particular of an SFA registered person who had the involvement which Mr Goekjian had in facts and matters of the kind described in this Notice.
24. At all material times, Former Principle 9 obliged an SEO (such as Mr Goekjian) to have adequate arrangements properly to supervise and monitor staff to whom he delegated matters. Under the guidance set out in Revised Appendix 38, an SEO would not be responsible for failures in internal controls in circumstances where he had properly and reasonably delegated duties. However, an SEO did not meet the standards set out in Revised Appendix 38, or his obligations under Former Principle 9, if, having delegated duties, the systems to monitor them and to follow up on any problems which might occur were inadequate and/or were not utilised.
25. On the basis of the facts and matters set out in paragraphs 26 to 50, the FSA considers that:
 - (1) Mr Goekjian himself breached Former Principles 2 and 9;
 - (2) Mr Goekjian's breach of Former Principles 2 and 9 was evidenced by his failure to meet the obligations imposed on him by good practice,

which were from time to time reflected in Appendix 38 of the SFA's Rules, in particular the obligation to monitor delegated duties and to follow up problems which might occur;

- (3) Mr Goekjian failed to act so as to prevent CSFP from breaching Former Principle 9; and
- (4) Mr Goekjian thereby committed acts of misconduct within the meaning of SFA Rule 7-23A(3);
- (5) Mr Goekjian is therefore guilty of misconduct.

Facts and matters relied on

(1) Introduction

26. On 21 February 1995, Mr Goekjian became CEO of CSFP, a company within the Credit Suisse Group of companies ("Credit Suisse Group"), and he held that position until January 1999. At all material times, he was registered with SFA as CSFP's SEO. He is currently an approved person but is no longer employed within the Credit Suisse Group.

(2) Background

27. At all material times CSFP was regulated for the conduct of investment business by SFA. CSFP dealt in a wide range of derivative products world-wide and was at all material times headquartered in London, where Mr Goekjian was based.
28. Between 1990 and 14 April 1997, CSFP was not licensed to conduct business directly in Japan. In or about July 1990, CSFP appointed CS First Boston (Japan) Limited ("CSFB JL"), a company within the Credit Suisse Group based in Tokyo which held a Japanese securities licence, to act as its agent in Japan.
29. Thereafter, and until 14 April 1997, most of CSFP's activities in Japan were undertaken on its behalf by a division within CSFB JL known as the Structured Products Group ("the SPG").
30. Although it was part of CSFB JL, the SPG was widely regarded within both CSFP and CSFB JL as CSFP's business unit in Japan and CSFP had direct responsibility for much of the SPG's management and control.
31. Towards the end of 1994 when he was CSFP's Head of Trading, Mr Goekjian recommended that CSFP should apply to the Japanese Ministry of Finance ("MoF") for a banking licence to open its own branch in Tokyo. On 15 April 1997, following approval by the MoF, CSFP opened its own branch in Tokyo ("the Tokyo Branch"). At all material times thereafter, CSFP's activities in Japan were undertaken principally by the Tokyo Branch.

(3) Audit of CSFB JL by the NTA

32. In early October 1996, Mr Goekjian was informed that the NTA proposed to conduct a tax audit of CSFB JL's activities for the period April 1994 to March 1996.

33. At that time, Mr Goekjian believed that, due to both the nature of CSFP's relationship with the SPG and the activities conducted by the SPG on CSFP's behalf, there was a significant risk of a determination by the NTA that the SPG represented a "permanent establishment" of CSFP in Japan and that, if such a determination was made, CSFP could be liable to a substantial amount of Japanese tax, which by the end of 1996 was calculated to be as much as US\$76 million .
34. In accordance with CSFP's organisational and management structure, in early October 1996 CSFP's response to the NTA Audit was delegated by Mr Goekjian to senior managers in CSFP.
35. The FSA makes no criticism of the fact that Mr Goekjian delegated matters in relation to the NTA Audit: on the contrary, it would be expected of someone in his position. However, Mr Goekjian failed properly to supervise or monitor those to whom he delegated matters, in the circumstances described below. The FSA is of the view that this failure was a particularly serious act of misconduct and showed a grave lack of effective and responsible management.

(4) CSFP's Response to the NTA's Audit of CSFB JL

36. Both prior to and during the course of the NTA Audit (which commenced on 14 October 1996 and finished on 3 July 1997), senior employees of CSFP and of CSFB JL engaged in conduct designed deliberately to mislead the NTA as to the nature and scope of business being conducted on CSFP's behalf in Japan.
37. In order to reduce the risk of the SPG being deemed a permanent establishment, CSFP employees and members of the SPG's staff acting on CSFP's behalf took active steps to conceal from the NTA the actual relationship between CSFP and the SPG and the nature and extent of the business being carried out by the SPG. These steps included:
 - (1) arranging to provide the NTA with information which CSFP knew to be misleading in relation to the SPG's activities and which incorrectly indicated that:
 - (a) the SPG acted on CSFP's behalf in an administrative or liaison capacity only;
 - (b) the SPG had no power to agree to any transaction on behalf of any Credit Suisse Group company and that transactions for CSFP were undertaken by the SPG's traders only after consideration and approval by CSFP traders based in Hong Kong. In fact, the CSFP traders in Hong Kong merely signed the deal tickets relating to the SPG's transactions and they did not consider the transactions or review the tickets before doing so;
 - (c) SPG department heads did not report to CSFP managers in London;
 - (2) removing copies of daily transaction logs and Profit and Loss reports which had been attached to documents that were to be inspected by the NTA and removing other documents from CSFB JL's offices for all or part of the duration of the NTA inspection;

- (3) purchasing a shredder for the destruction of documents which it was intended should not be seen by the NTA inspectors (although there is no evidence that any documents were actually destroyed);
 - (4) arranging to provide the NTA with a version of the SPG's weekly transaction log which omitted details of transactions which would have indicated the nature and extent of the SPG's activities on behalf of CSFP;
 - (5) agreeing that the NTA incorrectly be informed that no record existed of the deals facilitated by the SPG on behalf of CSFP;
38. In addition, certain senior employees of CSFP assisted in briefing employees of CSFB JL in Tokyo to mislead the NTA inspectors.
- (5) Mr Goekjian's involvement in the NTA Audit
39. Although the FSA does not assert that Mr Goekjian had actual knowledge of CSFP's misconduct, he was the recipient of documents over the period of the NTA Audit which made it plain, given the knowledge which Mr Goekjian had about the activities of the SPG and the permanent establishment issue, that CSFP was engaged in conduct designed deliberately to mislead the NTA as to the nature and scope of the business being conducted on CSFP's behalf in Japan.
40. At all material times, Mr Goekjian managed the documents and e-mails ("Documents") sent to him in such a way that he merely scanned them and put them in a "two week box" without reading them, unless he decided as a result of his scan that he needed to read the Document immediately. Only if he was specifically asked to read or respond to a Document which he had put in his "two week box" would he do so. Consequently, Mr Goekjian asserts that he did not read the bulk of the Documents relevant to the NTA Audit which he was sent during the course of that audit.
41. There were a number of methods of reporting to and raising matters with Mr Goekjian, including telephone calls, face-to-face communications and the weekly meetings of CSFP's Management Committee, as well as by e-mail. Generally, Mr Goekjian expected to be kept informed of progress of the NTA Audit through the regular Management Committee meetings but each of these methods was an acceptable way to communicate with Mr Goekjian in connection with the NTA Audit, which was a matter of considerable importance to Mr Goekjian in his capacity as CEO of CSFP. He had made it known to senior management at CSFP at the outset that he wished to be kept informed of developments regarding the NTA Audit and to be personally consulted if his assistance was needed. Yet, Mr Goekjian did not inform any of his subordinates, including those who reported on matters relating to the NTA Audit at the time by e-mail to him, of his "two week box" system of managing Documents.
42. In these circumstances, by failing to read the Documents or to inform others in CSFP of his "two-week box" system, Mr Goekjian failed properly to supervise or monitor those to whom he had delegated matters relating to the NTA Audit and to put in place proper arrangements for such supervision and monitoring. In so doing, Mr Goekjian seriously failed to organise and control CSFP's internal affairs in a responsible

manner. It also demonstrates a grave lack of due skill, care and diligence in that, had he properly supervised and monitored, Mr Goekjian would have been more alive to the warning signals of CSFP's misconduct, which he should have picked up, followed up and investigated.

43. Further, in response to requests for assistance, Mr Goekjian became personally involved in the arrangements concerning CSFP's and CSFB JL's responses to the NTA auditors on three separate occasions (in November 1996, in December 1996, and in May 1997) and on one further occasion he signed a letter dated 14 March 1997 to CSFB JL, drafted for him by one of the Vice Presidents in the financial control department of CSFP, which was (without, as he asserts, Mr Goekjian's knowledge) designed to create an "audit trail" to be used, if necessary, to mislead the NTA during the course of the audit.
44. The FSA considers that these events were strong warning signals of CSFP's misconduct. Mr Goekjian's failure to pick up, follow up and investigate these warning signals, and then to take appropriate, swift and decisive action to halt and prevent or remedy CSFP's misconduct, showed, in the FSA's view, both a grave lack of due skill, care and diligence on the part of Mr Goekjian and a serious want of responsible organisation and control of CSFP's internal affairs.
45. In his interviews with the SFA, Mr Goekjian described the conduct evidenced by the Documents which he was sent, but asserted he did not read, variously as of "concern", "troubling", "misleading", not "appropriate conduct", "not the approach I would have tolerated", "just not acceptable", "just wholly unacceptable", "crazy", "stupid" and "shocking".
46. In interview, Mr Goekjian also confirmed his understanding that it was important for CSFP, the SPG and CSFB JL not to try to mislead the NTA or to try to hide things from the NTA.
47. Mr Goekjian accepted in interview that, had he become aware of the attempts to mislead (which were clear from the Documents which Mr Goekjian received and which the FSA considers would have been apparent to him had he read them, the importance of the NTA Audit to him as CEO of CSFP and due to his personal involvement in some of the responses given to the NTA auditors), he would have asked questions and followed matters up. Further (it is to be presumed) he would have put a stop to the attempts which were being made to mislead the NTA and would have remedied the situation, for example, by causing the NTA auditors to be given a clear and truthful account of the nature and scope of the business being conducted on CSFP's behalf in Japan.

(6) Misconduct on the part of Mr Goekjian

48. The FSA considers that Mr Goekjian failed in the period from October 1996 to July 1997, in breach of Former Principle 2, to act with due skill, care and diligence in connection with the NTA Audit. As CEO and SEO of CSFP, particularly given his personal involvement in the responses given to the NTA auditors, he ought to have detected the clear warning signals which were there, he should have followed them up, asked questions about them and put a stop to the efforts which were being made to mislead the NTA. He should also have remedied the effects of CSFP's misconduct by

causing the NTA auditors to be given a clear and truthful statement of the nature and scope of the business being conducted on CSFP's behalf in Japan.

49. Further, through his instruction that he wished to be kept informed of developments in relation to the NTA Audit and to be personally consulted if his assistance was needed, and through his personal involvement in some of the responses given to the NTA auditors, Mr Goekjian assumed a personal responsibility and obligation, which he failed to carry out adequately or at all, properly to supervise and monitor the duties in relation to the NTA Audit which he had delegated to others, and also to follow up any problems which occurred.
50. By these failures, Mr Goekjian did not meet the standards required of him under Appendix 38 and he also seriously failed to ensure that CSFP's internal affairs were organised and controlled in a responsible manner, thereby breaching Former Principle 9. In so doing, he in addition failed to act so as to prevent CSFP from being in breach of that Former Principle 9, even though, as CEO and SEO of CSFP, the principal responsibility for CSFP's internal controls and compliance procedures lay with him.

Financial Penalty: Relevant Guidance

51. In deciding to impose a penalty of £150,000 on Mr Goekjian, the FSA has had regard in particular (by virtue of Article 9(8) of the 2001 Transitional Provisions Order) or, to SFA's policy on the taking of disciplinary action and the imposition, and amount, of penalties.
52. SFA Briefing Update 12 ("Briefing 12") set out SFA's policy with respect to disciplinary penalties which was in force when the conduct in question took place. At that time, there was no statement which had been made by SFA with respect to its policy on the taking of disciplinary action. However, paragraph 11 of Briefing 12 presupposed that the conduct complained of must be "worthy of disciplinary action".
53. Briefing 12 indicates that, in each case, the question of penalty must be determined in the light of individual circumstances, both of the offence and of the offender (paragraph 8). The penalty should be:
 - (a) adequate, to express condemnation of the particular wrongdoing by penalising the offender and to deter the offender and others; and
 - (b) fair to the defendant (paragraph 10).
54. The FSA considers that Mr Goekjian committed acts of misconduct in that he breached Former Principles 2 and 9 and he failed to act so as to prevent CSFP from breaching Former Principle 9.
55. The FSA considers the seriousness of this misconduct to be worthy of disciplinary action and that the taking of disciplinary action against Mr Goekjian is appropriate in all the circumstances.
56. As described above, the FSA considers to be particularly serious Mr Goekjian's failures in October 1996 to July 1997 to:
 - (a) read the Documents; and/or

- (b) inform others of his “two-week box” system of managing Documents; and/or
- (c) detect and investigate warning signals; and/or
- (d) properly supervise and monitor CSFP’s response to the NTA Audit;

in circumstances in which he had the following responsibilities:

- (1) as CEO and SEO of CSFP, he was responsible for properly supervising and monitoring those to whom he delegated matters relating to the conduct of the NTA Audit; and
- (2) a personal responsibility and obligation in relation to the NTA Audit through his instruction that he should be kept informed and personally consulted if his assistance was needed, and through his personal involvement in the responses to the NTA Audit as set out in paragraph 43.

57. However, the FSA has concluded that it would not be appropriate to withdraw Mr Goekjian’s approval in respect of his current position. In this respect, the FSA has had regard in particular to the following:

- (a) that Mr Goekjian is no longer employed by CSFP and is now employed by a company which is not comparable in size or structure to CSFP;
- (b) the amount of time which has elapsed since the NTA Audit;
- (c) Mr Goekjian’s wide-ranging responsibilities while CEO of CSFP;
- (d) matters relating to CSFP’s response to the NTA had been delegated to other senior management of CSFP; and
- (e) Mr Goekjian's acknowledgement in interview to SFA that CSFP's misconduct was unacceptable.

58. Nonetheless, the FSA considers that Mr Goekjian’s misconduct is so serious as to merit a significant sanction and that, in all the circumstances, the imposition on him of a penalty of £150,000 is both appropriate and adequate to express condemnation of his misconduct and to deter others and is in all the circumstances fair to Mr Goekjian.

59. The FSA recognises that the penalty it has decided to impose on Mr Goekjian is substantial. However, the FSA is of the view that the circumstances of this case are quite exceptional. The failure of a CEO (and SEO) to detect and deal with his firm’s deliberate attempts to mislead an overseas authority over a significant period of time represents a grave risk to confidence that UK authorised financial institutions at home and abroad will carry out their activities with probity and appropriate management control. Furthermore, the consequences of Mr Goekjian’s misconduct permitted and facilitated a number of his subordinates to engage in conduct designed deliberately to mislead the NTA during the period October 1996 to July 1997. The FSA considers that in deciding the penalty regard should be had to the conduct which Mr Goekjian’s misconduct facilitated and permitted.

60. In concluding the imposition on Mr Goekjian of a penalty of £150,000 is appropriate, the FSA has had particular regard to the following factors (paragraph 11 of Briefing 12):
- (1) the gravity of the offence: the FSA considers Mr Goekjian's breaches of Former Principles 2 and 9, his failure to act to prevent CSFP from breaching Former Principle 9 and his failings as regards existing good practice/Appendix 38 of the SFA's Rules, to be particularly serious and that a financial penalty of £150,000 properly reflects Mr Goekjian's misconduct;
 - (2) the seriousness of the offence in the context of Mr Goekjian's compliance record: prior to these matters, Mr Goekjian had a clean compliance record;
 - (3) whether the offence indicated a lack of proper compliance procedures/systems of supervision within CSFP: the FSA considers that Mr Goekjian's conduct demonstrated a lack of proper supervision and monitoring by him in relation to CSFP's contribution to the response to the NTA Audit. Mr Goekjian was not only ultimately responsible as CEO and SEO of CSFP but also had some personal involvement;
 - (4) whether the offences were deliberate or committed through inadvertence: the FSA considers that the offences were not then deliberate nor committed through mere inadvertence but that they were committed as a result of serious carelessness on Mr Goekjian's part;
 - (5) the extent to which Mr Goekjian derived benefit from his misconduct: the FSA does not assert that Mr Goekjian derived any direct personal benefit from his misconduct but his misconduct in failing to act assisted the attempts to mislead the NTA and thereby reduced the risk that CSFP would incur a very significant liability to Japanese tax. This benefited Mr Goekjian in his capacity as CEO of CSFP;
 - (6) penalties imposed by SFA Tribunals or agreed in settlements in previous similar cases: although the SFA has imposed fines in cases where individuals have breached Former Principles 2 and 9, the FSA does not consider that these cases are sufficiently similar to be of assistance. In particular, there has been no previous occasion on which a fine has been imposed on the CEO/SEO of an organisation as large as CSFP who has acted with the lack of due skill, care and diligence displayed by Mr Goekjian in circumstances such as the present. The FSA notes the statement in Briefing 12: "While consistency with precedent is a laudable aim, SFA has no desire to constrain or fetter its freedom to impose an appropriate penalty, taking into account the unique features of each individual case".
61. In determining the level of financial penalty, the FSA has taken into account that this case involves conduct prior to 2 November 1998 when SFA's revised penalty policy, introduced by Board Notice 497, came into force.
62. In reaching its conclusion as to the appropriate level of financial penalty it has decided to impose on Mr Goekjian, the FSA has also had regard to the factors set out in *ENF* 13.3 of the Enforcement manual to the extent that they mitigate the application of SFA's penalty policy. As a result, the FSA has made due allowance for

the fact that Mr Goekjian has fully cooperated with SFA and the FSA in their investigations (*ENF* 13.3.3(5)(a)). There is no suggestion that payment of the proposed financial penalty would cause Mr Goekjian serious financial hardship or financial difficulties (*ENF* 13.3.3(3)).

Conclusion

63. In all the circumstances and having regard to its statutory objectives, in particular the market confidence objective, the FSA considers that the gravity and circumstances of Mr Goekjian's conduct are such that it is appropriate to impose on him a penalty of £150,000.

MANNER OF PAYMENT

The Penalty must be paid to the FSA in full.

TIME FOR PAYMENT

The Penalty must be paid to the FSA no later than 31 October 2003, being not less than 14 days beginning with the date on which this notice is given to you.

IF PENALTY NOT PAID

If all or any of the Penalty is outstanding on 31 October 2003, the FSA may recover the outstanding amount as a debt owed by you and due to the FSA.

IMPORTANT

The Final Notice given to you in accordance with section 390 of the Act.

Publicity

Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notices relates. Under those provisions, the FSA must publish such information about the matter to which this notices 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.

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

FSA Contacts

For more information concerning this matter generally, you should contact Ian Brown (direct line 020 7066 1366/fax: 020 7066 1367) or Pam Cross (direct line: 020 7066 1216/fax: 020 7066 1217) of the FSA.

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Martyn Hopper
Head, Market Integrity Group
FSA Enforcement Division