Financial Services Authority

FINAL NOTICE

To:	Paolo Maranzana
FSA Reference Number:	PXM01665
Date:	13 December 2010

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") gives you final notice that it has taken the following action:

1. THE PENALTY

1.1. The FSA gave Mr Paolo Maranzana ("Mr Maranzana") a Decision Notice on 4 November 2010 which notified him that the FSA had decided to impose on him:

(1) A prohibition order pursuant to section 56 the Financial Services and Markets Act 2000 (the "Act") prohibiting Mr Maranzana from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm, because he has fallen below the minimum regulatory standards in terms of integrity by acting recklessly; and

(2) A financial penalty of £105,000 pursuant to Section 66 of the Act.

1.2. Mr Maranzana agreed to settle at an early stage of the FSA's investigation. He therefore qualifies for a 30% (Stage 1) discount under the FSA's executive

settlement procedures. Were it not for this discount, the FSA would have imposed a financial penalty of £150,000 on him.

2. REASONS FOR THE ACTION

Summary

2.1. Mr Maranzana was approved to perform the controlled function CF30 (Customer Function) at Sedley Richard Laurence Voulters ("SRLV"/"the Firm"). He was a salaried partner who saw himself as a 'junior' partner who did not have any managerial responsibilities at SRLV. He was the designated "relationship partner" at SRLV for Natrocell Shareholders Limited ("NSL") and NSL's wholly owned subsidiary Natrocell Technologies Limited ("NTL"), both of whom were clients of SRLV, between 1 May 2008 and 11 November 2008 ("the Relevant Period").

2.2. The FSA proposes to impose the financial penalty on Mr Maranzana because he is guilty of misconduct as defined by Section 66(2) of the Act while an approved person at SRLV. During the Relevant Period, Mr Maranzana was knowingly concerned in contraventions by the Firm of requirements imposed on the Firm by or under the Act.

2.3. In particular, Mr Maranzana was knowingly concerned in the contravention by the Firm of Principle 1 of the Principles for Businesses ("PRIN"), in that Mr Maranzana managed the Firm's relationship with NSL during the promotion, offer for sale, and sale of shares in NSL by various unauthorised overseas entities which the FSA believes to be share fraud operators, commonly known as boiler rooms. Mr Maranzana should have known that the promotion and sale of the shares were being carried out by such entities in breach of the provisions of the Act.

2.4. SRLV's activities included the making of arrangements which enabled investors to complete transactions to purchase shares. These arrangements included:

(1) the instruction of an affiliated entity, Portland Registrars Limited ("Portland Registrars"), to act as registrar, whereby it issued Stock Purchase Agreements ("SPA") - without which the transactions could not have been concluded - processed share sales and issued share certificates; and

(2) the operation of client bank accounts into which payments for shares were made and without which the transactions could not have been completed. This facilitated the sale of shares by the share fraud operators.

2.5. In addition, SRLV effected payments of funds from these client bank accounts to third parties in accordance with instructions from NSL and NTL.

2.6. SRLV performed its role in relation to NSL and NSL's wholly-owned subsidiary NTL, during the Relevant Period, through Mr Maranzana.

2.7. SRLV and Mr Maranzana should have known that share fraud operators were involved in the promotion and sale of shares, and therefore that SRLV could be handling the proceeds of crime. However, SRLV and Mr Maranzana continued to make arrangements to bring about the sale by NSL of its shares and the purchase of those shares by investors. SRLV and Mr Maranzana should have known that their involvement might have reassured potential investors about the legitimacy of the sale of NSL shares.

2.8. Despite the warning signs of possible financial crime by the share fraud operators that were available to Mr Maranzana and some others at the Firm, Mr Maranzana and SRLV failed to act or respond appropriately. Rather than accepting his own responsibility to counter the risk of financial crime by the share fraud operators, Mr Maranzana recklessly sought to place those responsibilities on NTL and NSL. Consequently, Mr Maranzana paid insufficient attention to his responsibility to deal with the alerts appropriately and continued the arrangements and his involvement in the disbursement of monies to the share fraud operators and their associates.

2.9. Mr Maranzana was therefore knowingly concerned in the contraventions of SRLV of PRIN1 and has therefore contravened the requirements of the regulatory system. By his conduct Mr Maranzana has demonstrated a lack of readiness and willingness to abide by legal and professional standards. On this basis he has demonstrated that he has fallen below the minimum standards required in terms of his integrity by acting recklessly and therefore is not fit and proper to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

2.10. The FSA considers these failings to be particularly serious because:

(1) investor funds of at least £2,566,027 were generated as a result of the unauthorised sale of shares and were paid into the client bank accounts operated by the Firm, most of which were paid out to various third parties. Investors were therefore exposed to the risk of financial detriment as a substantial amount of the funds raised through share sales was unlikely to have been realised or used for the benefit of NSL, although Mr Maranzana did not recognise this;

(2) the involvement of SRLV, an FSA authorised firm, may have on at least one occasion did provide reassurance to investors about the legitimacy of the scheme in a manner which could be taken as implying that funds would be safe. Although Mr Maranzana did not intend to provide legitimacy to the promotion and sale of NSL shares, he should have realised that SRLV's role may have resulted in this; and

(3) in addition, the failings continued without SRLV or Mr Maranzana addressing them appropriately, even after they were alerted to concerns about the sales tactics and the unauthorised status of the overseas entities.

2.11. The FSA recognises that since the end of the Relevant Period, Mr Maranzana has cooperated fully with the FSA's investigations into the promotion and sale of NSL shares.

2.12. The FSA also notes that Mr Maranzana had not previously been involved with companies seeking to raise funds from retail investors. Furthermore, Mr Maranzana has stated that he did not conceal his activities regarding NSL/NTL from others at SRLV, and that he discussed the NSL fundraising with more experienced partners at the Firm.

2.13. The FSA does not allege that Mr Maranzana acted dishonestly in his role with respect to NSL or NTL and notes that he was not involved in promoting NSL shares or providing advice on NSL's fund raising to clients or potential investors. Furthermore that he had no involvement in the appointment of the share fraud operators.

2.14. However Mr Maranzana's failings merit the imposition of a significant financial penalty and lead the FSA to conclude that he is not fit and proper to perform any

function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. Accordingly, the FSA proposes to make an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

Statutory provisions

3.1. Market confidence and the reduction of financial crime are statutory objectives for the FSA under section 2(2) of the Act.

3.2. The relevant statutory provisions relating to unauthorised business and the carrying on of regulated activities and unauthorised financial promotions, and relevant guidance in relation to approved persons are set out in the Annex to this notice.

Prohibition Orders

3.3. Section 56 of the Act provides the FSA with the power to make an order prohibiting an individual from performing a specified function, any function falling within a specified description, or any function, if it appears to the FSA that that individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by any authorised person, exempt person or exempt professional person.

Disciplinary Powers

3.4. Section 66 of FSMA provides:

"(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.

(2) A person is guilty of misconduct if, while an approved person –

(a) he has failed to comply with a statement of principle issued under section 64; or

(b) he has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person by or under this Act …

(3) If the Authority is entitled to take action under this section against a person, it may

(a) impose a penalty on him of such amount as it considers appropriate".

FSA Principles

3.5. The FSA's Principles for Businesses ("PRIN") are general statements of the fundamental obligations of firms under the regulatory system. They derive their authority from the FSA's rule making powers as set out in the Act and reflect the FSA's regulatory objectives.

Principle 1

A firm must conduct its business with integrity.

FSA Handbook guidance

3.6. The FSA's general approach to determining whether to impose a financial penalty and the appropriate level of any such penalty is set out in the Decision Procedures and Penalties Guide ("DEPP"), which is part of the FSA's Handbook. The principal purpose of imposing a financial penalty is to promote high standards of regulatory conduct by deterring persons who have breached regulatory requirements from committing further contraventions, helping to deter others from committing similar breaches and demonstrating generally the benefits of compliant behaviour (DEPP 6.1.2G). DEPP 6.5.2 G sets out a non-exhaustive list of factors that may be relevant to determining the appropriate level of financial penalty.

3.7. Guidance relating to prohibition orders is contained in the Enforcement Guide ("EG") at EG 9. This states that the FSA may exercise its power to prohibit individuals where it considers that, to achieve any of its regulatory objectives, it is appropriate to prevent an individual from performing any function in relation to regulated activities (EG 9.1).

3.8. The relevant chapters of the above parts of the FSA Handbook are also set out in the Annex to this Notice.

The "Fit and Proper" rules

3.9. The FSA Handbook also sets out rules and guidance relating to the Fit and Proper Test for Approved Persons ("FIT"). The relevant parts of FIT are set out in the Annex to this Notice.

4. FACTS AND MATTERS RELIED ON

The Firm and Mr Maranzana

4.1. SRLV is a partnership of chartered accountants which is also an 'authorised professional firm' under the Act. This means that it practices a profession regulated by a designated professional body, the Institute of Chartered Accountants in England and Wales ("ICAEW"), is subject to the rules of that body and is authorised under the Act to the extent that it carries on regulated activities but its main business of accountancy is not regulated by the FSA.

4.2. SRLV has a number of permissions to conduct regulated activities as an authorised professional firm, however these are subject to a number of material restrictions, namely:

(1) Corporate finance only (except managing investments) - In respect of each regulated activity for which the firm holds a Part IV permission, excluding managing investments, the activity is limited to corporate finance business only;

(2) May hold/control client money if rebated commission - The general requirement not to hold or control client money does not apply if the client money arises from an agreement under which commission is rebated to the client; and

(3) Regulated activities incidental only - The firm must not carry on the specified regulated activities otherwise than in an incidental manner in the course of the provision by it of professional services (that is, services which do not consist of regulated activities).

4.3. In or around May 2008, SRLV was engaged by one of its existing clients, NSL, to assist with fund raising by providing company secretarial and registrar services, and by receiving and dispersing monies through its existing client bank accounts.

4.4. SRLV then instructed Portland Registrars to provide company secretarial and registrar services to NSL. Portland Registrars, although a separate legal entity, is in practice a division of SRLV, formed to provide a service to SRLV's clients.

4.5. Mr Maranzana was the designated relationship partner in respect of the Firm's provision of services to NSL and NTL. He took over responsibility for providing services to these companies from another partner and carried out this role for approximately five years. Mr Maranzana was a salaried partner of SRLV who did not have any managerial responsibilities at SRLV, and did not hold a significant influence function. Mr Maranzana saw his position as a 'junior' partner at SRLV. He held CF30 from 1 November 2007 until 30 September 2009 (having previously held CF23 from 1 December 2001).

4.6. NSL was formed solely as a parent company and it acquired the entire issued share capital of NTL on a share-for-share basis. It had no operational business and was the holding company of its wholly-owned subsidiary, NTL. NTL was concerned with developing, testing, manufacturing and making preliminary sales of its rodenticide products and had been a client of SRLV for a number of years. SRLV and Mr Maranzana viewed NTL as a legitimate business with existing product and distribution contracts. SRLV and Mr Maranzana had confidence in NSL and NTL's directors.

4.7. In May 2008, NSL embarked on a fund raising exercise purportedly with the intention of raising up to £5 million from the issue of shares in NSL to enable NTL to develop its business.

4.8. SRLV and Mr Maranzana's activities in respect of NSL and NTL stopped on 11 November 2008 when the FSA imposed a requirement on SRLV to cease any activities in respect of the shares of NSL and to preserve the remainder of the proceeds of the sale of shares in their client bank accounts. SRLV also took voluntary steps to preserve the monies in a second client bank account.

4.9. NSL and NTL went into administration on 24 June 2009 and 17 August 2009 respectively. The proceeds of NTL's client bank accounts have now been released to the administrator of NSL and NTL for distribution. Mr Maranzana co-operated fully during this process.

The promotion and sale of shares

4.10. To assist with the fundraising exercise, NSL engaged the services of other entities and individuals to promote, offer for sale and sell shares in NSL to UK and other investors. These entities were purportedly based overseas and were not authorised by the FSA, nor were they, to the FSA's knowledge, authorised in the respective jurisdictions where they were purportedly based. The entities, also referred to as brokers, are share fraud operators or "boiler rooms" who were to be paid 60% of the value of the share sales they generated by way of commission. SRLV and Mr Maranzana were aware of the level of this commission but were not involved in the decision to appoint the unauthorised entities and individuals nor in promoting NSL shares to potential investors. Mr Maranzana did not advise NSL on its fundraising activity, nor did he provide advice to prospective investors.

4.11. At least 1,262 prospective investors were contacted by a number of the share fraud operators. Of this number, 1,027 prospective investors were based in the UK and at least 433 (from various jurisdictions) paid monies to the client bank accounts operated by SRLV, in return for NSL shares.

4.12. Analysis of information provided by consumers who complained to the FSA ("complainants") indicated that most of them had been cold-called by the share fraud operators; none having had any prior contact with their caller. Various explanations were provided as to how the caller had obtained the complainant's details including a reference to a marketing list and an assertion that the complainants had completed a form permitting contact. No such form has been identified during the FSA's investigation. There is no evidence that Mr Maranzana was aware of these arrangements.

4.13. Evidence from emails indicates that some potential investors reported their concerns to SRLV; many were distressed as a result of the persistent and pressurised nature of the calls. Mr Maranzana was aware of these concerns.

4.14. The complainants reported that they were told some or all of the following by the share fraud operators; i) the shares on offer were 19p per share; ii) the shares were intended to form part of an Initial Public Offering; iii) NSL intended shortly to list on the PLUS market and; iv) the share price was expected to rise to over 30p on listing. Although none of the complainants could recall being told exactly what the

fund raising was intended to finance, a number referred to being informed that the subsidiary company, NTL, was seeking a patent in India.

4.15. Some complainants were sent documents by the share fraud operators which included a copy of a PowerPoint presentation on NTL containing a reference to the fact that NTL was '*seeking a listing on PLUS markets as soon as possible in order to provide additional working capital for [its distribution contract in India] and other contracts*'. The documents also included a share circular which indicated that the proceeds from the sale of shares would be used for a number of other purposes which included enhancing its management team.

4.16. The share fraud operators were therefore communicating an invitation or inducement to engage in investment activity in breach of section 21(1) of the Act in a manner in which none of the exemptions in sections 21(2) or 21(3) of the Act, or Articles 19 and 30 of the Financial Services and Markets Act 2000 (Financial Promotions) Order 2005 (the "FPO") apply. This is a criminal offence in the United Kingdom.

4.17. A number of potential investors received SPAs bearing the name and logo of 'Natrocell Technologies' from the share fraud operators. This form set out details of the shares of NSL that the potential investor had agreed to purchase and the payment instructions. The payment instructions directed potential investors to pay the purchase consideration into a bank account "*SRLV Ref: Natrocell Technologies Ltd"*. This was a client bank account that was set up and operated by SRLV and which had been in existence for a number of years prior to the Relevant Period.

4.18. The SPA also required potential investors to complete the form and return it to Portland Registrars. Following payment of the share purchase consideration, potential investors usually received an NSL share certificate from the share registrar signed by one of the then directors of NSL. In some instances, share certificates were sent directly by NSL.

4.19. Therefore, the share fraud operators were arranging deals in investments as they were directly involved in share purchases by UK investors in a manner which can be distinguished from being mere introducers. On this basis, they contravened section 19 of the Act which is a criminal offence in the United Kingdom.

Portland Registrars Limited ("Portland Registrars")

4.20. Portland Registrars was established by SRLV to provide company secretarial and registrar support to SRLV's clients. Some of SRLV's senior partners and their spouses were directors of Portland Registrars. Mr Maranzana was not a director of Portland Registrars. Although Portland Registrars is a separate legal entity, it does not have a separate agreement with any of SRLV's clients including NSL and/or NTL, therefore in practice it is simply a division of SRLV that provides a service to SRLV's clients.

4.21. Under the direction and instruction of SRLV and Mr Maranzana, Portland Registrars carried on a number of activities which resulted in bringing about transactions in investments i.e. share sales. In regard to the NSL transactions, these activities included:

(1) sending SPAs to prospective investors;

(2) arranging for share certificates to be issued by the directors of NSL;

(3) maintaining statutory records relating to the amount of shares sold;

(4) passing information to NSL and NTL that facilitated the payment of commissions to the share fraud operators, with NSL and NTL undertaking the actual calculation of the commission and the identification of whom to pay; and

(5) registering issued shares with Companies House.

4.22. Portland Registrars, having received details of investors who the share fraud operators had contacted, sent them a covering letter and issued an SPA which detailed the number of shares that they had agreed to purchase, the amount due, and requested that the investor signed and return the SPA to Portland Registrars at their postal address or care of a fax number shared by SRLV and Portland Registrars.

4.23. Once the signed SPA was received and Portland Registrars had confirmed that payment had been received into the nominated client bank account, Portland Registrars would update an internal spreadsheet with the details of the confirmed purchase; prepare share certificates and forms for the notification to Companies House of the share allotment; and send confirmation to NSL who would sign the certificates and requisite forms.

4.24. Portland Registrars issued SPAs to the majority of investors and the SPA, which created a binding contract between the investor and NSL, without which the transactions could never have been concluded. It is noted that Portland Registrars were performing a company secretarial function and were not promoting the sale of the shares in any way.

4.25. In addition to issuing SPAs, processing share sales and issuing share certificates, Portland Registrars also received regular updates from the share fraud operators and had frequent contact with them. This included receiving unsolicited emails from share fraud operators chasing commissions owed to them; receiving spreadsheets containing a list of trades for that day; receiving email requests for details of whether a particular investor's funds had arrived or cleared in the SRLV client bank accounts; providing and receiving email confirmation of matters principally relating to which investors had received SPAs; and being advised of the investor details that would appear on the SRLV client bank account statements if different to the investor's name. Portland Registrars referred many of the share fraud operators' questions to NSL including those relating to the share fraud operators' commissions.

4.26. All of these activities were carried on by Portland Registrars with Mr Maranzana's knowledge and supervision.

The client bank accounts

4.27. From 2004, SRLV opened, managed and operated two client bank accounts for NTL; a primary and a secondary account. Both of these client bank accounts were named "SRLV Ref: Natrocell Technologies Ltd" but they had different account numbers. The practicing signatories for these client bank accounts were all partners of SRLV and disbursements from the client bank accounts were made following a set procedure at the Firm, which required the authorisation of two equity partners of SRLV. Mr Maranzana was not a signatory on these client bank accounts.

4.28. Mr Maranzana was aware of and supervised the initial stages of SRLV's procedure for seeking approval for payments from the client bank accounts following the receipt of instructions from NSL or NTL.

4.29. SRLV operated these client bank accounts on the instructions of NTL and NSL. These client bank accounts were used as part of the process of the sale of shares by

share fraud operators as payments for shares were made into these accounts. Without these client bank accounts, the transactions could not have been completed.

4.30. SRLV provided a service in relation to the sale of the shares by holding the funds for NTL and NSL, the beneficial owners of the funds, and it provided a service in passing on the funds to other parties as directed by NTL and NSL.

4.31. SRLV considered that these accounts were client bank accounts and that the monies held in the client bank accounts were at all times client monies.

4.32. SRLV stated that using these client bank accounts to receive share sales made the process more efficient and enabled SRLV and Portland Registrars to monitor payments in order that share certificates could be issued.

4.33. The use of these client bank accounts to receive monies paid by investors in consideration for shares may have given comfort to investors about the legitimacy of the fundraising exercise and the safety of the funds, because the client bank accounts were in the name of SRLV, an FSA authorised entity. In at least one instance, an investor stated that he took comfort from the fact that he was paying money into a well known bank and also that SRLV, an FSA registered accountancy firm, was involved.

4.34. Between 30 May 2008 and 31 December 2008, a total of £2,690,119 was credited to the client bank accounts, of which at least £2,566,027 were monies received from investors who purchased shares in NSL. Approximately 80% of these investors are UK residents.

4.35. In the same period, and on instruction from NSL and NTL, SRLV effected the payment of £2,403,419 from the client bank accounts to numerous beneficiaries in the UK, Switzerland, Cyprus, Seychelles, Greece, Spain, Turkey, USA, Belgium and South Africa.

4.36. Significant sums were paid out in relation to the commission earned by the share fraud operators and to the directors of NSL. A relatively small proportion of the proceeds of the share sales appears to have been used for the stated purposes for which the monies were raised, although Mr Maranzana did not recognise this.

4.37. In total £1,318,270 appears to have been paid to share fraud operators or their associates, in comparison to approximately £508,385 that appears to have been

directly associated with NTL and NSL, £412,177 of which was paid directly to or for the benefit of parties connected to NTL and NSL's former directors.

4.38. On the instructions of NTL and/or NSL, SRLV effected payments from the client bank accounts on occasions to persons and entities that, were, on the face of it, unrelated to NTL and/or NSL or its business. Some of the recipients were offshore entities, with company names which SRLV did not recognise. As these payments were authorised by NTL and NSL, they were consequently viewed by SRLV as relating to NTL and NSL's business.

Mr Maranzana's conduct

4.39. Mr Maranzana should have considered that financial promotions were being made and shares were being sold to UK and other investors by entities that exhibited all of the characteristics of share fraud operations.

4.40. Mr Maranzana knew that the client bank accounts managed by SRLV were used to receive the proceeds of share sales. Portland Registrars, under his supervision, monitored monies received from investors through spreadsheets and bank statements, which on occasion were presented to Mr Maranzana.

4.41. Mr Maranzana also supervised the application of SRLV's internal procedures for organising disbursements from the client bank accounts, including to offshore locations. He should therefore have been aware that payments from the client bank accounts were being made to recipients who represented a high risk in terms of money laundering as they were unrecognised corporate vehicles incorporated in offshore jurisdictions.

4.42. Mr Maranzana also became aware, during the Relevant Period, that a number of share fraud operators were engaged to promote and sell the shares of NSL, that the share fraud operators were being paid commission of approximately 60%, that the share fraud operators were based outside the UK and that UK potential investors who were being targeted by these share fraud operators were being cold called and subjected to inappropriate selling tactics.

Commission and location overseas

4.43. Mr Maranzana was made aware by NSL at the beginning of the fund raising exercise in May 2008 that the entities involved in promoting and selling the shares were based overseas.

4.44. In addition, in no fewer than seven instances dating from 4 June 2008, potential investors raised concerns by email regarding the promotion of NSL shares by overseas entities during the Relevant Period. Mr Maranzana received these emails and discussed them with a senior partner at SRLV.

4.45. Mr Maranzana was also informed by NSL/NTL in May 2008 that the share fraud operators would be earning 60% commission. Mr Maranzana queried this level of commission with NSL/NTL and was told that this was a result of the prevailing economic crisis. This issue was discussed with a senior partner of SRLV.

4.46. Following receipt of instructions from NSL/NTL, Mr Maranzana supervised the preparation of internal documentation for presentation to senior partners as signatories to the client bank accounts. SRLV was also responsible for effecting payments, which included commission payments to the entities, from the client bank accounts it operated. Mr Maranzana was therefore aware that substantial sums of money from the amounts paid by UK investors were going overseas.

Unauthorised status of entities and warnings by regulators

4.47. In addition to the concerns raised by investors, between 6 May 2008 and 16 October 2008, the FSA added the names of a number of the share fraud operators concerned to its list of unauthorised firms, as follows:

(1) on 6 May 2008, Steinberg Investment Research AG;

(2) on 22 August 2008, Goodman Stern;

(3) on 16 September 2008, Hunter Rowe Financial;

(4) between 16 and 26 September 2008, Clean Planet Investments; and

(5) on 16 October 2008, Kensington Capital.

4.48. SRLV and Mr Maranzana were aware of the names of some of the overseas entities who were engaged in the promotion and sale of NSL shares. They were also aware that some of these entities corresponded using personal internet-based email accounts hosted by gmail and hotmail. Mr Maranzana did not appreciate the

significance of this as a potential indicator of the entities lack of corporate or legal substance.

4.49. In addition, on 28 July 2008, SRLV received the first of a number of emails from potential investors, questioning the authorisation status of the entities. These were directed to NSL/NTL.

4.50. Subsequently, Mr Maranzana was alerted that at least two of the entities were not authorised and to warnings by regulators in respect of their activities. On 29 September 2008, a potential investor wrote to one of the former directors of NSL attaching a copy of the FSA list of "unauthorised overseas firms operating in the UK" published on the FSA website. The potential investor had asterisked the name of Hunter Rowe Financial and indicated that he had decided not to proceed with his purchase. Mr Maranzana was copied this letter by way of an email on 3 October 2008 and he states he discussed the email and the list with a senior partner of SRLV.

4.51. Despite the alerts and warning signs set out above, Mr Maranzana did not take any further steps to ascertain whether the entities were conducting unauthorised business.

4.52. In interview, in relation to whether he gave any consideration to the authorisation of the overseas entities Mr Maranzana stated *"Not specifically, that's outside of our remit, we were only really asked to issue shares."*

4.53. On 7 October 2008, a potential investor telephoned SRLV and spoke to an employee informing them that he had heard a lot of bad press about Natrocell. This is the first time the FSA has identified the term 'boiler room' being used by a potential investor. The potential investor also stated that the FSA had informed him that Goodman Stern was an unauthorised company. Whilst SRLV raised this concern with NSL/NTL, it continued to accept investor monies and issue shares.

4.54. On 13 October 2008, another potential investor telephoned an SRLV employee to explain that she had seen some adverse reporting on the FSA website about another overseas entity which promoted and sold NSL shares, Edenbourg Advisory Services ("Edenbourg"). She provided details of an alert about Edenbourg that had been published by the Belgian Banking, Finance and Insurance Commission (CBFA).

4.55. Mr Maranzana confirmed that he did not conduct any checks to confirm who Edenbourg were, or visit the FSA website to see if any information had been

published about it on the FSA list of unauthorised overseas firms operating in the UK. He said; *"Are we worried or do we feel we should be doing something and again it just came back to the conclusion 'well it wasn't within our remit'"*. However, investors' concerns were again raised with NSL/NTL.

4.56. On 14 October 2008, an employee of SRLV notified Mr Maranzana and some other partners at SRLV about a discussion forum on the Motley Fool website which referred to NSL, brokers, boiler rooms and SRLV. The employee expressed concerns about the business, stating *"I knew it was dodgy from the start"*.

Inappropriate sales tactics

4.57. Mr Maranzana was also aware of calls by investors about the cold calls and pressurised sales tactics employed by the share fraud operators and adverse press reports relating to some of the share fraud operators.

4.58. On 10 July 2008, Mr Maranzana was alerted to an 89 year old man who was distressed about being contacted by share fraud operators.

4.59. On 1 August 2008, a bank manager telephoned in respect of his client, a 90 year old lady who had been cold called by share fraud operators and stated that she was not in a reasoned state to make a decision about the purchase of shares. On the same date, Mr Maranzana received an email from the SRLV employee who took the phone call, informing him about this issue.

4.60. In an email dated 18 August 2008, sent to Mr Maranzana, an employee of SRLV explained that an elderly investor had telephoned to state he did not want to invest, and that he was barely able to "*get the words out*". Another employee who had spoken to the same investor stated *"this man is elderly and vulnerable and the brokers are trying to bully him back into buying these shares. It's absolutely disgraceful and sickening"*. Whilst SRLV raised these issues with NSL/NTL, it continued to accept investor monies and issue shares.

Reassurance given to investors

4.61. On occasion, Mr Maranzana played a role by liaising with some investors to explain the remit and involvement of SRLV. Although Mr Maranzana did not seek to provide legitimacy to the sale of NSL shares, he should have known that these explanations may have reassured potential investors about the legitimacy of the scheme in a manner which could be taken as implying that their funds would be safe.

4.62. In an email dated 8 September 2008, a potential investor, stated "*Hunter Rowe Financial are offering to sell me shares in Natrocell but I do not know the firm, other that (sic) from an unsolicited phone call. Could you please confirm that your firm's (sic) acts for Natrocell and that I can safely buy their shares through Hunter Rowe by sending the funds to your firm*".

4.63. In response, Mr Maranzana stated, *"We do indeed act for Natrocell and as the Registrars for this particular issue of shares. While we cannot offer any investment advice in respect of Natrocell or any other company or business, I can point out that we are acting as Registrar for the issue of share certificates and are currently issuing shares on Hunter Rowe's and the Director's instructions. Once the funds and the contact (sic) note has (sic) been received, we issue the share certificate within ten days"*.

4.64. On 15 October 2008, SRLV received another email from another potential investor, questioning the legitimacy of NSL. This email was forwarded to Mr Maranzana, who replied, "*we act as registrars for the group and cannot guarantee the shares*".

4.65. When asked whether the response from SRLV, a firm based in the UK, authorised by the FSA added credibility, Mr Maranzana stated *"No I think I'm, I'm explaining the facts."*

4.66. However this investor has since informed the FSA that he took comfort from the fact that he was paying money into a well known UK bank and also that SRLV, an FSA registered accountancy firm, was involved.

Mr Maranzana's actions in light of his knowledge

4.67. All of the information above taken in isolation or as a whole demonstrates that Mr Maranzana should have known that share fraud operators were promoting and selling NSL shares. However, he took wholly inadequate steps in addressing these concerns with NSL/NTL.

4.68. Mr Maranzana did not confirm whether the entities were appropriately authorised nor did he check the FSA list of unauthorised firms to see if the entities with whom he and SRLV were dealing were published on it. Emails from investors highlighting concerns were merely forwarded to NSL stating among other things that *"it is not appropriate that my staff deal with these calls and I am not happy that SRLV's reputation is being sullied in this way"*. Despite threatening to cease its activities for NSL, Mr Maranzana did not stop or reduce the arrangements in respect of the fund raising.

4.69. On 3 November 2008, Mr Maranzana and some other partners at SRLV, received and discussed an email in relation to a potential investor who reported that the sale of NSL shares was a scam and that the broker supposedly based in Germany did not exist. The email indicated that concerns had been raised with the "London Fraud Squad".

4.70. When Mr Maranzana was asked in interview whether he gave any consideration to the authorisation of the overseas entities, he said *"Not specifically, that's outside of our remit, we were only really asked to issue shares" and "I'm involved in a very limited capacity I mean it isn't as though we were selling the shares"*.

4.71. The above matters indicate that Mr Maranzana did not sufficiently consider the risk of detriment to investors. He persisted with the provision of services even after he became aware of the unauthorised nature of the overseas share fraud operators and investor complaints because he considered that he knew NSL, NTL and its product well. The history of interaction between SRLV and NSL gave him and SRLV comfort that everything was genuine, and not a scam. Whilst he also discussed the issues with some of SRLV's partners, he concluded that these issues did not fall within his firm's remit. Rather, Mr Maranzana considered that issues surrounding the raising of funds by NSL were solely a matter for NSL, and that, by forwarding details of these issues to NSL, he was discharging any responsibilities he might have had. This was despite the possible involvement of NSL in the issues of concern.

5. ANALYSIS OF BREACHES

Knowingly concerned in a breach of Principle 1 - Integrity

5.1. By reason of the facts and matters above, Mr Maranzana was knowingly concerned in SRLV's contravention of Principle 1 of the Principles for Businesses - acting with integrity by acting recklessly. The activities of the SRLV constitute the making of arrangements within the scope of article 25(2). The effect of these arrangements was to bring about the transactions in NSL shares, and without them the transactions would not have completed. Mr Maranzana should have known share fraud operators were involved in the promotion and sale of shares, and therefore that he could be involved in the handling of the proceeds of crime. However, Mr Maranzana facilitated SRLV's arrangements to bring about the sale of shares in NSL and the purchase of those shares by investors. Mr Maranzana should have known that SRLV's involvement might have reassured potential investors about the legitimacy of the sale of NSL shares.

5.2. Despite the warning signs of possible financial crime by the share fraud operators, that were available to Mr Maranzana and some others at the Firm, Mr Maranzana and SRLV failed to act or respond appropriately. Rather than accepting his own responsibility to counter the risk of financial crime by the share fraud operators, he recklessly sought to place those responsibilities on NTL and NSL. Consequently, by mainly seeking to resolve matters through raising them with NTL and NSL, Mr Maranzana paid insufficient attention to his responsibility to deal with the alerts appropriately and continued the arrangements and the disbursement of monies to the share fraud operators and their associates. Mr Maranzana's actions facilitated criminal activity and put at risk significant investments by UK consumers.

5.3. By his actions Mr Maranzana was therefore knowingly concerned in the contravention of PRIN 1 by the SRLV.

Lack of fitness and propriety

5.4. The FSA considers that by being knowingly concerned in the contraventions set out above by the Firm in the manner described, Mr Maranzana has demonstrated that he failed to recognise and understand his responsibilities, and therefore failed to comply with the requirements and standards of the regulatory system.

5.5. In particular, Mr Maranzana demonstrated a reckless disregard for the interests of consumers by his attitude and responses to concerns about the involvement of share fraud operations in the business for which he had responsibility. Mr Maranzana acted recklessly and therefore lacks integrity.

5.6. Mr Maranzana's knowing involvement in the contraventions by SRLV throughout the Relevant Period exposed UK customers to severe risk of loss, and threatened confidence in the financial system.

5.7. Having regard to the provisions of FIT, for all these reasons the FSA concludes that Mr Maranzana is not a fit and proper person to perform functions in relation to regulated activities.

6. FACTORS RELEVANT TO DETERMINING THE ACTION

Prohibition Order

6.1. In considering whether to impose a prohibition order, the FSA has had regard to the provisions of EG and in particular the provisions of EG 9.9.

6.2. Having regard to its regulatory objectives, including the need to maintain confidence in the financial system, to promote public awareness, to secure the appropriate degree of protection for consumers and to prevent financial crime, the FSA considers it necessary to make an order prohibiting Mr Maranzana from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

Financial penalty

6.3. The FSA has considered the disciplinary and other options available to it and has concluded that a financial penalty is the appropriate sanction in the circumstances of this particular case. The principal purpose of a financial penalty is to promote high standards of regulatory conduct. It seeks to do this by deterring individuals who have breached regulatory requirements from committing further contraventions, helping to deter other individuals from committing contraventions and demonstrating generally to individuals the benefit of compliant behaviour.

6.4. In determining the financial penalty proposed, the FSA has had regard to guidance contained in the Decisions Procedure and Penalties manual (DEPP) Chapter 6 which

came into force as part of the FSA's Handbook of Rules and Guidance (the FSA Handbook) on 28 August 2007.

6.5. DEPP 6.5 sets out some of the factors that may be of particular relevance in determining the appropriate level of a financial penalty. DEPP 6.5.1 G states that the criteria listed in DEPP 6.5 are not exhaustive and all relevant circumstances of the case will be taken into consideration. In determining whether a financial penalty is appropriate and the amount, the FSA is required therefore to consider all the relevant circumstances of the case.

Deterrence

6.6. The involvement of approved persons in share scams or the activities of boiler rooms undermines the integrity of the UK financial services sector. Unless they are prepared to uphold proper standards and do not engage with clients who deal with such entities, approved persons risk contravening UK and/or overseas laws. The FSA's consumer protection, financial crime and market confidence statutory objectives are all endangered by the failures of approved persons in this regard.

6.7. The FSA considers that the financial penalty imposed will promote high standards of regulatory conduct and deter Mr Maranzana from committing further breaches. The FSA also considers that the financial penalty will help deter other individuals and approved persons from committing similar breaches.

The nature, seriousness and impact of the breach in question

6.8. The FSA has had regard to the seriousness of the breaches, including the nature of the requirements breached, the duration of the breaches and the impact of the breaches.

6.9. The FSA considers that Mr Maranzana's breaches are of a particularly serious nature given the overall loss suffered by investors. Investors paid approximately £2,566,000 for the shares of NSL as a result of the activities of the share fraud operators and it is unlikely that investors will recover the full extent of the monies they paid for these shares as the balance of funds in the client bank accounts at the end of the Relevant Period totalled approximately £361,000. In addition, the failings continued and did not result in any significant action being taken by Mr Maranzana, even after he was alerted to concerns about the sales tactics used by the authorised overseas entities. If

the FSA had not identified these failings and the breaches of the FSA's regulatory requirements, it is likely they would have continued, resulting in further customer detriment.

6.10. The FSA has also had regard to the value of the payments made to the share fraud operators which is in excess of £1.3 million.

The extent to which the breach was deliberate or reckless

6.11. The FSA considers that Mr Maranzana's misconduct was reckless. He is an authorised professional person required to uphold high standards of behaviour. He should have known that his activities would facilitate those of share fraud operators. Even after concerns had been drawn to his attention, he did not take the concerns seriously enough.

The size, financial resources and other circumstances of the person on whom the penalty is to be imposed

6.12. The FSA has taken into account Mr Maranzana's remuneration. During the Relevant Period he was paid £125,000 gross per annum, plus benefits. It is noted that as a salaried partner, Mr Maranzana did not derive direct financial benefit from the misconduct.

Disciplinary record and compliance history

6.13. Mr Maranzana has not been subject to any previous disciplinary action.

Other action taken by the FSA (or a previous regulator)

6.14. The FSA has had regard to past cases.

7. CONCLUSION

7.1. The FSA considers that the nature and seriousness of Mr Maranzana's misconduct demonstrates that he is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt person or exempt professional firm, and it is, therefore, appropriate for the FSA to exercise its powers to make the prohibition ordered against him.

7.2. In addition the FSA considers that because of the nature and seriousness of his misconduct, and in order to promote high standards of regulatory conduct by helping

to deter other persons from committing similar breaches, it is appropriate to impose a financial penalty of £105,000 on Mr Maranzana.

8. DECISION MAKERS

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

9. IMPORTANT

9.1. This Final Notice is given to you in accordance with section 390 of the Act.

Manner of and time for Payment

9.2. The financial penalty of £105,000 is payable in the following instalments:

(1) £11,000 on or by 5 January 2011;

(2) A further £11,000 on or by 31 December 2011;

(3) A further £11,000 on or by 31 December 2012; and

(4) The remaining balance of £72,000 on or by 31 July 2013.

If the financial penalty is not paid

9.3. If all or any of the financial penalty is outstanding on 6 January 2011, 1 January 2012, 1 January 2013 or 1 August 2013, the FSA may recover the outstanding amount as a debt owed by you and due to the FSA.

Publicity

9.4. 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.

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

FSA Contacts

9.6. For more information concerning this matter generally, you should contact Stephen Robinson at the FSA (direct line: 020 7066 1338/fax: 020 7066 1339).

Georgina Philippou
FSA Enforcement and Financial Crime Division

ANNEX

Unauthorised Business and the Carrying on of Regulated Activities

Section 19(1) FSMA provides that *"no person may carry on a regulated activity in the United Kingdom, or purport to do so, unless he is (a) an authorised person or (b) an exempt person"*. This prohibition is referred to as the "general prohibition" (section 19(2) FSMA).

Section 22(1) FSMA provides that *"an activity is a "regulated activity" for the purposes of FSMA if it is an activity of a specified kind which is carried on by way of business and (a) relates to an investment of a specified kind or (b) in the case of an activity of a kind which is also specified for the purposes of that section, is carried on in relation to property of any kind"*.

Article 25(2) of the Financial Services and Markets Act 2000 (Regulated Activities Order 2001) ("RAO") states:

(1) "Arranging deals in investments

(1)… Making arrangements for another person (whether as principal or agent) to buy, sell, subscribe for or underwrite a particular investment which is—

a) Security

(b) a [relevant investment], or

(c) an investment of the kind specified by article 86, or article 89 so far as relevant to that article,

is a specified kind of activity.

(2)Making arrangements with a view to a person who participates in the arrangements buying, selling, subscribing for or underwriting investments falling within paragraph 1(a)…(whether as principal or agent) is also a specified kind of activity."

Section 327 of the Act states that:

(1) "The general prohibition does not apply to the carrying on of a regulated activity by a person ("P") if—

(a) the conditions set out in subsections (2) to (7) are satisfied; and

(b) there is not in force—

(i) a direction under section 328, or

(ii) an order under section 329, which prevents this subsection from applying to the carrying on of that activity by him.

(2) P must be—

(a) a member of a profession; or

(b) controlled or managed by one or more such members.

(3) P must not receive from a person other than his client any pecuniary reward or other advantage, for which he does not account to his client, arising out of his carrying on of any of the activities.

(4) The manner of the provision by P of any service in the course of carrying on the activities must be incidental to the provision by him of professional services.

(5) P must not carry on, or hold himself out as carrying on, a regulated activity other than—

(a) one which rules made as a result of section 332(3) allow him to carry on; or

(b) one in relation to which he is an exempt person.

(6) The activities must not be of a description, or relate to an investment of a description, specified in an order made by the Treasury for the purposes of this subsection.

(7) The activities must be the only regulated activities carried on by P (other than regulated activities in relation to which he is an exempt person).

(8) "Professional services" means services—

(a) which do not constitute carrying on a regulated activity, and

(b) the provision of which is supervised and regulated by a designated professional body".

Unauthorised Financial Promotions

Section 21(1) FSMA provides that *"a person must not, in the course of business, communicate an invitation or inducement to engage in investment activity".*

Section 21(2) FSMA specifies that the restriction does not apply if the person is an authorised person or the content of the communication is approved for the purposes of section 21(1) by an authorised person.

Section 21(3) FSMA specifies that, *"in the case of a communication originating outside the United Kingdom, the restriction applies only if the communication is capable of having an effect in the United Kingdom"*.

"Engaging in investment activity" includes entering or offering to enter into an agreement the making or performance of which by either party constitutes a "controlled activity" (section 21(8)(a) FSMA). *"An activity is a "controlled activity" if (a) it is an activity of a specified kind or one which falls within a specified class of activity; and (b) it relates to an investment of a specified kind, or to one which falls within a specified class of investment (section 21(9) FSMA)"*.

Article 4(1) of the Financial Services and Markets Act 2000 (Financial Promotions) Order 2005 (the "FPO") provides that, for the purposes of section 21(9) of FSMA, a "controlled activity" is an activity which falls within any of paragraphs 1 to 11 of Schedule 1 of the FPO. "Advising on investments" and "arranging deals in investments" are both controlled activities listed in Schedule 1 of the FPO (paragraphs 4 and 7 Schedule 1 FPO). Shares are considered to be "controlled investments" (paragraph 14 Schedule 1 FPO).

Article 8 of the FPO defines solicited and unsolicited real time communications:

Interpretation: solicited and unsolicited real time communications

8. *(1) A real time communication is solicited where it is made in the course of a personal visit, telephone call or other interactive dialogue if that call, visit or dialogue -*

(a) was initiated by the recipient of the communication; or

(b) takes place in response to an express request from the recipient of the communication.

(2) A real time communication is unsolicited where it is made otherwise than as described in paragraph (1).

(3) For the purposes of paragraph (1) -

(a) a person is not to be treated as expressly requesting a call, visit or dialogue -

(i) because he omits to indicate that he does not wish to receive any or any further visits or calls or to engage in any or any further dialogue;

(ii) because he agrees to standard terms that state that such visits, calls or dialogue will take place, unless he has signified clearly that, in addition to

agreeing to the terms, he is willing for them to take place;

(b) a communication is solicited only if it is clear from all the circumstances when the call, visit or dialogue is initiated or requested that during the course of the visit, call or dialogue communications will be made concerning the kind of controlled activities or investments to which the communications in fact relate.

FSA Handbook guidance

EG 9.8 provides:

"When the FSA has concerns about the fitness and propriety of an approved person, it may consider whether it should prohibit that person from performing functions in relation to regulated activities, withdraw its approval, or both. In deciding whether to withdraw its approval and/or make a prohibition order, the FSA will consider in each case whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions, for example, public censures or financial penalties, or by issuing a private warning".

EG 9.3 provides: *"In deciding whether to make a prohibition order the FSA will consider all the relevant circumstances including whether other enforcement action should be taken".*

When deciding whether to make a prohibition order and/or withdraw the approval, the FSA will consider all relevant circumstances of the case which may include but are not limited to the following criteria set out in EG 9.9:

"(2) whether the individual is fit and proper to perform functions in relation to regulated activities." The criteria for assessing this are set out in that part of the FSA's Handbook entitled "The Fit and Proper test for Approved Persons" ("FIT");

"(3) whether and to what extent the approved person has:

(a) failed to comply with the Statements of Principle issued by the FSA with respect to the conduct of approved persons; or

(b) been knowingly concerned in a contravention by the relevant firm of a requirement imposed on the firm by or under the Act (including the Principles and other rules)...

(5) The relevance and materiality of any matters indicating unfitness.

…

(7) The particular controlled functions the approved person is … performing, the nature and activities of the firm concerned and the markets in which he operates.

(8) The severity of the risk which the individual poses to consumers and to confidence in the financial system."

EG 9.5 provides: "The scope of a prohibition order will depend on the range of functions which the individual concerned performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of risk which he poses to consumers of the market generally".

The "Fit and Proper" rules

FIT 1.1.3 G and 1.3.2 G provide as follows:

> "The FSA will have regard to a number of factors when assessing the fitness and propriety of a person to perform a particular controlled function. The most important considerations will be the person's:
>
> (1) honesty, integrity and reputation;
>
> (2) competence and capability; and
>
> (3) financial soundness". (FIT 1.1.3 G)
>
> "In assessing fitness and propriety, the FSA will also take account of the activities of the firm for which the controlled function is or is to be performed, the permission held by that firm and the markets within which it operates." (FIT 1.3.2 G)

FIT 2.1.1(G) provides that in determining a person's honesty, integrity and reputation, the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3 G.

FIT 2.1.3 G (5) provides that a relevant factor is *"whether the person has contravened any of the requirements and standards of the regulatory system or the equivalent standards or requirements of other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies"*.

FIT 2.1.3 G (13) also provides that a relevant factor is *"whether in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards"*.