
FINAL NOTICE

To: **Laura Hazel Cummings**

Individual Ref: **LHC01009**

Date: **1 November 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 ACTION

- 1.1 The FSA gave you, Laura Hazel Cummings ("Miss Cummings") a Decision Notice on 12 October 2010 which notified you that, the FSA had decided to withdraw your approval to perform controlled functions in relation to Bridging Loans Ltd ("BLL") pursuant to section 63 of the Financial Services and Markets Act 2000 ("the Act") and to make a prohibition order, pursuant to section 56 of the Act, prohibiting you from performing significant influence functions in relation to any regulated activity carried on by any authorised person or exempt professional firm on the grounds that you are not a fit and proper person.
- 1.2 You confirmed on 12 October 2010 that you will not be referring the matter to the Upper Tribunal (Tax and Chancery Chamber).
- 1.3 Accordingly, for the reasons set out below, the FSA hereby withdraws your approval to perform controlled functions in relation to BLL pursuant to section 63 of the Act and also makes an order, pursuant to section 56 of the Act, prohibiting you from performing significant influence functions in relation to any regulated activity carried on by any

authorised person or exempt professional firm. This order has effect from 20 October 2010.

2. REASONS FOR THE ACTION

2.1 The FSA has decided to take the above action based upon the facts and matters described below.

2.2 In summary, while performing controlled functions at BLL between 31 October 2004 and 25 August 2009 (the “relevant period”), you failed to:

- (1) take reasonable steps to inform yourself about the affairs of BLL; and
- (2) take reasonable steps to ensure that the business of BLL complied with the relevant requirements, including by failing to implement adequate and appropriate systems and controls.

2.3 The FSA considers that, as you became an approved person solely because you were told to by your father, there is a risk that you will continue to exercise a significant influence function over a firm or permit yourself to be used as a proxy for someone else to do so.

2.4 FSA has therefore concluded that you are not fit and proper to perform significant influence functions in relation to regulated activities carried on by an authorised person, exempt person or exempt professional firm, in that you lack competence and capability, and should be prohibited from doing so.

2.5 FSA considers that your conduct was serious because your failings meant that you were effectively detached from the business of the firm that you were approved by the FSA to run. In your absence that firm, BLL a mortgage lender, lent money to customers irresponsibly and then failed to treat customers in arrears fairly.

2.6 Deciding the appropriate disciplinary sanction, the FSA recognises the following factors which mitigate the seriousness of the findings:

- (1) you did not seek to deliberately mislead the FSA in signing the approved persons application form and did so only at the request of your father;

- (2) you did not receive any remuneration from your role as director at BLL; and
- (3) you have been open and co-operative with the FSA's investigation.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

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

4. FACTS AND MATTERS RELIED ON

Background

4.1 BLL is a mortgage lender, specialising in bridging loans, incorporated in Scotland. It has been authorised and regulated by the FSA since 31 October 2004 to carry on the following regulated activities:

- (1) Administering a regulated mortgage contract;
- (2) Agreeing to carry on a regulated activity;
- (3) Dealing in investments as principal; and
- (4) Entering into a regulated mortgage contract as lender.

4.2 During the relevant period, BLL operated as a non-bank specialist lender in the entering into and administration of first and second charge secured finance, with initial terms of between three and 18 months. BLL was visited by the FSA in June 2009 as part of its intrusive approach to supervision of firms operating in this sector. During the relevant period approximately 25% of BLL's business was made up of FSA regulated mortgage contracts. The remaining 75% of BLL's business consisted of second charge residential lending, commercial lending or mortgages for the purposes of buy-to-let, and therefore is not regulated by the FSA. Management Information produced by the firm showed that approximately 35% of regulated mortgage contracts entered into by BLL went into arrears and similar proportions were extended beyond the initial term.

4.3 You became a director of BLL on 10 January 1990. You are also a director of three other companies (none of which are regulated by the FSA).

4.4 There are four other directors at BLL, three of whom are approved persons holding CF1.

Application to be an approved person

4.5 On 30 January 2004 you signed an application to become an approved person at BLL. You have held CF1 (Director) at BLL since 31 October 2004.

4.6 During an interview with the FSA you made a number of admissions:

- (1) whilst you could not recall specifically, you believe that you signed the application to be an approved person at the suggestion of your father, who was also a director at BLL;
- (2) you played no active role at BLL;
- (3) you were unaware that you were an approved person; and
- (4) you were unaware of your responsibilities as an approved person or the responsibilities of BLL as an authorised person.

5. ANALYSIS OF PROPOSED SANCTION

5.1 The FSA has considered whether you are a fit and proper person to perform any function in relation to regulated activities. In doing so, the FSA has considered its regulatory requirements and relevant guidance. The facts and matters described at paragraphs 4.1 to 4.6 above lead the FSA to conclude that you failed to:

- (1) take steps to inform yourself about your responsibilities as an approved person; and
- (2) ensure that BLL met or continued to meet its regulatory responsibilities. You have had no material involvement in the operation of the business since your approval.

5.2 The FSA has therefore concluded that your conduct demonstrated a lack of competence and capability and you are therefore not fit and proper to carry out any significant influence functions in relation to any regulated activities carried on by any authorised persons.

5.3 It is therefore necessary and proportionate, in order for it to achieve its regulatory objectives, for the FSA to exercise its powers to withdraw your approval and make a Prohibition Order against you.

6. DECISION MAKER

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

7. IMPORTANT

7.1 The Final Notice is given in accordance with section 390 of the Act.

Publicity

7.2 Sanctions 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. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.

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

FSA contacts

7.4 For more information concerning this matter generally, you should contact Mario Theodosiou at the FSA (direct line: 020 7066 5914 / email: mario.theodosiou@fsa.gov.uk).

Tom Spender
Head of Department
FSA Enforcement and Financial Crime Division

ANNEX A:

1. Relevant Statutory and regulatory provisions

Prohibition and Withdrawal of Approval

- 1.1. The FSA's statutory objectives, set out in section 2(2) of the Act are: market confidence; public awareness; the protection of consumers; and the reduction of financial crime.
- 1.2. The FSA has the power, pursuant to section 56 of the Act, 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 an authorised person, exempt person or exempt professional person.
- 1.3. Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description or all regulated activities.
- 1.4. Pursuant to section 63 of the Act, the FSA may withdraw an approval given under section 59 if it considers that the person in respect of whom it was given is not a fit and proper person to perform the function to which the approval relates.

The Fit and Proper Test for Approved Persons

- 1.5. The part of the FSA Handbook entitled the Fit and Proper Test for Approved Persons ("FIT") sets out guidance on how the FSA will assess the fitness and propriety of a person to perform a particular controlled function.
- 1.6. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function. FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 1.7. FIT 1.3.1G states that the FSA will have regard to a number of factors when assessing the fitness and propriety of a person and that the most important considerations will

be the person's honesty, integrity and reputation, competence and capability and financial soundness.

- 1.8. FIT 2.1.1G provides that, in determining a person's honesty, integrity and reputation, the FSA will have regards to factors including, but not limited to, those set out in FIT 2.1.3G. FIT 2.1.3.G sets out the following factors, amongst others which are relevant to this matter:
- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3(5) G); and
 - (2) 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 systems and with other legal, regulatory and professional requirements and standards (FIT 2.1.3(13)G).

The FSA's policy in relation to prohibition orders and withdrawal of approval

- 1.9. The FSA's policy in relation to prohibition orders and withdrawal of approval is set out in Chapter 9 of the Enforcement Guide ("EG").
- 1.10. EG 9.4 summarises the FSA's policy on making prohibition orders and the circumstances under which Enforcement will consider recommending such action. In particular:
- 1.11. *"The FSA has the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. Depending on the circumstances of each case, the FSA may seek to prohibit individuals from performing any class of function in relation to any class of regulated activity, or it may limit the prohibition order to specific functions in relation to specific regulated activities. The FSA may also make an order prohibiting an individual from being employed by a particular firm, type of firm or any firm."*
- 1.12. EG 9.5 continues as follows: *"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 the risk which he poses to consumers of the market generally.”

- 1.13. 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 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.”*
- 1.14. EG 9.9 states that, when it decides to exercise its power to make a prohibition order against an approved person and/or withdraw its approval, the FSA will consider all the relevant circumstances of the case. These may include, but are not limited to, the following factors:
- (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety of approved persons are set out in FIT 2. One criterion is the honesty, integrity and reputation of the individual (FIT 2.1);
 - (2) whether and to what extent the approved person has failed to comply with the Statements of Principle issued by the FSA with respect to the conduct of approved persons;
 - (3) whether the approved person has engaged in market abuse;
 - (4) the relevance and materiality of any matters indicating unfitness;
 - (5) the particular controlled function the approved person is (or was) performing, the nature and activities of the firm concerned and the markets in which he operates; and
 - (6) the severity of the risk which the individual poses to consumers and to confidence in the financial system.

1.15. EG 9.11 provides that due to the diverse nature of the activities and functions which the FSA regulates, it is not possible to produce a definitive list of matters which the FSA might take into account when considering whether an individual is not a fit and proper person to perform a particular, or any, function in relation to a particular, or any firm. However, EG 9.12 gives examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or to withdraw the approval of an approved person. These examples include:

- (1) severe acts of dishonesty e.g. which may have resulted in financial crime; and
- (2) serious breaches of the Statements of Principles for approved persons.
- (3) EG 9.23 provides that in appropriate cases, the FSA may take other action against an individual in addition to making a prohibition order and/or withdrawing approval, including the use of its powers to impose a financial penalty

Statements of Principle and Code of Conduct for Approved Persons

1.16. The FSA's statutory objectives, set out in section 2(2) of the Act, include the protection of consumers.

1.17. Section 66 of the Act provides that the FSA may take action against a person if it papers to the FSA that he is guilty of misconduct and the FSA is satisfied that it is appropriate in all the circumstances to take action against him.

1.18. An approved person is guilty of misconduct if, while an approved person, he has failed to comply with a statement of principle issued under section 64 of the Act or has been knowingly concerned in a contravention by the relevant authorised person or a requirement imposed on that authorised person by or under the Act.

1.19. The Statements of Principle and Code of Conduct for Approved Persons (“APER”) sets out the fundamental obligations of approved persons and also conduct which, in the opinion of the FSA, constitutes a failure to comply with a particular Statement of Principle. It also describes factors which the FSA will take into account in determining whether an approved person’s behaviour complies with it.

- 1.20. APER 3.1.3G states that, when establishing compliance with, or a breach of, a Statement of Principle, account will be taken of the context in which a course of conduct was undertaken, the precise circumstances of the individual case, the characteristics of the particular controlled function and the behaviour expected in that function.
- 1.21. APER 3.1.4G states that an approved person will only be in breach of a Statement of Principle when he is personally culpable. Personal culpability arises where an approved person's conduct was deliberate or where the approved person's standard of conduct was below that which would be reasonable in all circumstances.

Statement of Principle 1

- 1.22. Statement of Principle 1 is set out in APER 2.1.2P and requires that an approved person must act with integrity in carrying out his controlled function.
- 1.23. APER 3.3.1E provides that in determining whether or not the conduct of an approved person performing a controlled function complies with the Statements of Principle 1 to 4, the following are factors which, in the opinion of the FSA, are to be taken into account:
- (1) whether that conduct relates to activities that are subject to other provisions of the Handbook; and
 - (2) whether that conduct is consistent with the requirements and standards of the regulatory system relevant to his firm.
- 1.24. APER 4.1 lists the types of conduct which, in the opinion of the FSA do not comply with Statement of Principle 1.
- 1.25. APER 4.1.3E states that deliberately misleading (or attempting to mislead) a client by act or omission falls within the type of conduct that would not comply with Statement of Principle 1.

Statement of Principle 4

- 1.26. Statement of Principle 4 is set out in APER 2.1.2P and requires that an approved person must deal with the FSA and with other regulators in an open and cooperative way and must disclose appropriately any information of which the FSA would reasonably expect notice.
- 1.27. APER 3.3.1E provides that in determining whether or not the conduct of an approved person performing a controlled function complies with the Statements of Principle 1 to 4, the following are factors which, in the opinion of the FSA, are to be taken into account:
- (1) whether that conduct relates to activities that are subject to other provisions of the Handbook; and
 - (2) whether those conduct is consistent with the requirements and standards of the regulatory system relevant to his firm.
- 1.28. APER 4.4 lists the types of conduct which, in the opinion of the FSA do not comply with Statement of Principle 4.
- 1.29. APER 4.4.7E states that where the approved person is, or is one of the approved persons who is, responsible within the firm for reporting matters to the FSA, failing promptly to inform the FSA of information of which he is aware and which it would be reasonable to assume would be of material significance to the FSA, whether in response to questions or otherwise, is an example of conduct which does not comply with Statement of Principle 4.
- 1.30. APER 4.4.8E states that in determining whether or not an approved person's conduct under APER 4.4.7 E complies with Statement of Principle 4 (APER 2.1.2 P), the following are factors which, in the opinion of the FSA, are to be taken into account:
- (1) the likely significance of the information to the FSA which it was reasonable for the approved person to assume;
 - (2) whether any decision not to inform the FSA was taken after reasonable enquiry and analysis of the situation.
- 1.31. APER 4.4.9E states that failing without good reason to:

- (1) inform a regulator of information of which the approved person was aware in response to questions from that regulator;
- (2) attend an interview or answer questions put by a regulator, despite a request or demand having been made;
- (3) supply a regulator with appropriate documents or information when requested or required to do so and within the time limits attaching to that request or requirement;

are examples of conduct which does not comply with Statement of Principle 4.

Statement of Principle 6

- 1.32. Statement of Principle 6 is set out in APER 2.1.2P and requires that an approved person performing a significant influence function must exercise due skill, care and diligence in managing the business of the firm for which he is responsible in his controlled function.
- 1.33. APER 3.3.1E provides that in determining whether or not the conduct of an approved person performing a significant influence function complies with Statements of Principle 5 to 7, the following are factors which, in the opinion of the FSA, are to be taken into account:
 - (1) whether he exercised reasonable care when considering the information available to him;
 - (2) whether he reached a reasonable conclusion which he acted on;
 - (3) the nature, scale and complexity of the firm's business;
 - (4) his role and responsibility as an approved person performing a significant influence function;
 - (5) the knowledge he had, or should have had, of regulatory concerns, if any, arising in the business under his control.

- 1.34. APER 4.6 lists the types of conduct which, in the opinion of the FSA do not comply with Statement of Principle 6.
- 1.35. APER 4.6.3E to 4.6.8E provides examples of the types of behaviour that, in the opinion of the FSA, do not comply with Statement of Principle 6. These include:
- (1) failing to take reasonable steps to adequately inform himself about the affairs of the business for which he is responsible (APER 4.6.3E).
 - (2) delegating the authority for dealing with an issue or part of the business to an individual or individuals (whether in-house or outside contractors) without reasonable grounds for believing that the delegate had the necessary capacity, competence, knowledge, seniority or skill to deal with the issue or to take authority for dealing with part of the business (APER 4.6.5E) (see APER 4.6.14G);
 - (3) failing to take reasonable steps to maintain an appropriate level of understanding about an issue or part of the business that he has delegated to an individual or individuals (APER 4.6.6E); and
 - (4) failing to supervise and monitor adequately the individual or individuals (whether in-house or outside contractors) to whom responsibility for dealing with an issue or authority for dealing with a part of the business has been delegated (APER 4.6.8E).
- 1.36. APER 4.6.10E clarifies that in determining whether or not the conduct of an approved person performing a significant influence function under APER 4.6.5 E, APER 4.6.6 E and APER 4.6.8 E (i.e. where they have delegated an issue or part of the business to an individual or individuals) complies with Statement of Principle 6; the following are factors which, in the opinion of the FSA, are to be taken into account:
- (1) the competence, knowledge or seniority of the delegate; and
 - (2) the past performance and record of the delegate.
- 1.37. APER 4.6.12G(1) acknowledges that while an approved person performing a significant influence function is unlikely to be an expert in all aspects of a complex

financial services business, he should understand and inform himself about the business sufficiently to understand the risks of its trading, credit or other business activities. APER 4.6.12G(4) says that where the approved person is not an expert in a business area, he should consider whether he or those with whom he works have the necessary expertise to provide him with an adequate explanation of issues within that business area. If not, he should seek an independent opinion from elsewhere within or outside the firm.

- 1.38. APER 4.6.13G(2) says that the approved person should have reasonable grounds for believing that the delegate has the competence, knowledge, skill and time to deal with the issue. APER 4.6.13G(4) says that an approved person carrying out a significant influence function will not be in breach of Statement of Principle 6 unless he fails to exercise due and reasonable consideration before he delegates the resolution of an issue or authority for dealing with a part of the business and fails to reach a reasonable conclusion. If a decision to delegate was wrong in hindsight but was not unreasonable at the time then it won't be a breach of Statement of Principle 6.

Statement of Principle 7

- 1.39. Statement of Principle 7 is set out in APER 2.1.2P and requires that an approved person performing a significant influence function must take reasonable steps to ensure that the business of the firm for which he is responsible in his controlled function complies with the relevant requirements and standards of the regulatory system.
- 1.40. APER 3.3.1E provides that in determining whether or not the conduct of an approved person performing a significant influence function complies with Statements of Principle 5 to 7, the following are factors which, in the opinion of the FSA, are to be taken into account:
- (1) whether he exercised reasonable care when considering the information available to him;
 - (2) whether he reached a reasonable conclusion which he acted on;
 - (3) the nature, scale and complexity of the firm's business;

- (4) his role and responsibility as an approved person performing a significant influence function;
- (5) the knowledge he had, or should have had, of regulatory concerns, if any, arising in the business under his control.

1.41. APER 4.7.2E to 4.7.10E provides examples of the types of behaviour that, in the opinion of the FSA, do not comply with Statement of Principle 7. These include:

- (1) failing to take reasonable steps to implement (either personally or through a compliance department or other departments) adequate and appropriate systems of control to comply with the relevant standards of the regulatory system in respect of its regulated activities (APER 4.7.3E);
- (2) failing to take reasonable steps to monitor (either personally or through a compliance department or other departments) compliance with the relevant requirements and standards of the regulatory system in respect of its regulated activities (APER 4.7.4E); and
- (3) in the case of an approved person performing a significant influence function responsible for compliance, failing to take reasonable steps to ensure that appropriate compliance systems and procedures are in place (APER 4.7.10E).

1.42. APER 4.7.11 G provides that the FSA expects an approved person performing a significant influence function to take reasonable steps both to ensure his firm's compliance with the relevant requirements and standards of the regulatory system and to ensure that all staff are aware of the need for compliance.

Mortgages and Home Finance: Conduct of Business sourcebook

1.43. The rules and guidance relating to the entering into and administration of regulated mortgage contracts are located in the Mortgages and Home Finance: Conduct of Business sourcebook section of the FSA Handbook ("MCOB").

1.44. The rules and guidance on mortgage illustrations at the pre-application and offer stage are located in MCOB 5 and MCOB 6. MCOB 5.4.2R states that an illustration on a

particular regulated mortgage contract issued by, or on behalf of, a mortgage lender must be an accurate reflection of the costs of the regulated mortgage contract.

1.45. The rules and guidance on responsible lending are located in MCOB 11. MCOB 11.3.1R states that:

- (1) a *firm* must be able to show that before deciding to enter into, or making a further advance on, a *regulated mortgage contract*, or *home purchase plan*, account was taken of the *customer's* ability to repay.
- (2) a *mortgage lender* must make an adequate record to demonstrate that it has taken account of the *customer's* ability to repay for each *regulated mortgage contract* that it enters into and each further advance that it provides on a *regulated mortgage contract*. The record must be retained for a year from the date at which the *regulated mortgage contract* is entered into or the further advance is provided.

1.46. The rules and guidance on charges are located in MCOB 12. MCOB 12.4 states that:

- (1) A *firm* must ensure that any *regulated mortgage contract* that it *enters into* does not impose, and cannot be used to impose, a charge for *arrears* on a *customer* except where that charge is a reasonable estimate of the cost of the additional administration required as a result of the *customer* being in *arrears*.
- (2) Paragraph (1) does not prevent a *firm* from *entering into a regulated mortgage contract* with a *customer* under which the *firm* may change the rate of interest charged to the *customer* from a fixed or discounted rate of interest to the *firm's* standard variable rate if the *customer* goes into *arrears*, providing that this standard variable rate is not a rate created especially for *customers* in *arrears*.

1.47. The rules and guidance on arrears and repossessions is located in MCOB 13. MCOB 13.3.1 states that a firm must deal fairly with any customer who is in arrears on a regulated mortgage contract.

FSA's policy on financial penalties

- 1.48. The FSA's policy on the imposition and amount of penalties is set out in Chapter 6 of the Decision Procedure and Penalties manual (“DEPP”) in the FSA Handbook. This states that the FSA will consider the full circumstances of each case when determining whether or not to take action for a financial penalty, and sets out a non-exhaustive list of factors that may be relevant for this purpose.
- 1.49. The following are the provisions of DEPP which were applicable to misconduct during the relevant period. Revised provisions of DEPP came into force on 6 March 2010 for misconduct after 6 March 2010.
- 1.50. The principal purpose of imposing a financial penalty is to promote high standards of regulatory conduct by deterring persons who have committed breaches from committing further breaches, helping to deter other persons from committing similar breaches and demonstrating generally the benefits of compliant behaviour.
- 1.51. The FSA will consider the full circumstances of each case when determining whether or not to take action for a financial penalty. DEPP 6.2.1G set out guidance on a non-exhaustive list of factors that may be of relevance in determining whether to take action for a financial penalty, which include the following:
- (1) The nature, seriousness and impact of the suspected breach (DEPP 6.2.1G(1)).
 - (2) The conduct of the person after the breach (DEPP 6.2.1G (2)).
 - (3) The previous disciplinary record and compliance history of the person (DEPP 6.2.1G (3)).
 - (4) FSA guidance and other published materials (DEPP 6.2.1G (4)).
 - (5) Action taken by the FSA in previous similar cases (DEPP 6.2.1G(5)).
- 1.52. The FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty. DEPP 6.5.2G set out guidance on a non exhaustive list of factors that may be of relevance when determining the amount of a financial penalty.
- 1.53. Factors that may be relevant to determining the appropriate level of financial penalty for misconduct prior to 6 March 2010 include:

- (1) the nature, seriousness and impact of the breach in question, including the duration and frequency of the breach, whether the breach revealed serious or systemic weaknesses in the person's procedures or of the management systems or internal controls relating to all or part of a person's business, and the loss or risk of loss caused to consumers (DEPP 6.5.2G(2));
- (2) the extent to which the breach was deliberate or reckless (DEPP 6.5.2(3));
- (3) the size, financial resources and other circumstances of the person on whom the penalty is to be imposed (DEPP 6.5.2(5)); and
- (4) the general compliance history of the person, including whether the FSA has previously brought to the person's attention, issues similar or related to the conduct that constitutes the breach in respect of which the penalty is imposed (DEPP 6.5.2(9)(d)).