

---

## FINAL NOTICE

---

**To:** Shay Jacob Reches

**DOB:** December 1955

**Address:** Global Ridgeway Holdings Ltd  
Unit B02 am  
Basepoint Business & Innovation Centre  
110 Butterfield  
Great Marlings  
Luton  
Bedford  
LU2 8DL

**Date** 1 February 2016

### **ACTION**

1. For the reasons given in this notice, the Authority hereby:
  - a) imposes on Shay Reches a financial penalty pursuant to section 63A(1) of the Act of £1,050,000 plus any of the sum of £13,130,000 which Mr Reches is proposing to pay to various insurers that remains unpaid ("the Additional Penalty"); and
  - b) makes an order prohibiting Mr Reches from performing any function in relation to any regulated activities carried on by any authorised or exempt persons, or exempt professional firm. This order takes effect from 1 February 2016.
2. The Authority therefore imposes a combined penalty of £1,050,000 plus the Additional Penalty.
3. Mr Reches agreed to settle at an early stage of the Authority's investigation. Mr Reches therefore qualified for a 30% (stage 1) discount under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed a financial penalty of £1,500,000 (plus the Additional Penalty) on Mr Reches.

### **SUMMARY OF REASONS**

4. Mr Reches has never been an approved person. Between 1 December 2010 and 23 September 2013 ("the Relevant Period") he was an active entrepreneur in the

UK and European insurance market. During the Relevant Period, he had links to a number of entities providing insurance cover in the UK, including reinsurers, insurers, managing agents, coverholders, and brokers. Some of these entities were central to insurance schemes in the solicitors' professional indemnity insurance ("Solicitors' PII") market where the cover failed in three consecutive years (2011/2012, 2012/2013 and 2013/2014).

5. These failings in cover contributed to two European insurers, namely European Risk Insurance Company ("ERIC") and Balva Insurance Company AAS ("Balva") being placed into administration and subsequently being declared in default by the Financial Services Compensation Scheme ("the FSCS"). The FSCS has been left with substantial claims and by July 2015 had paid claims totalling £9.1m.
6. Entities controlled by and connected to Mr Reches, including UK insurance firm Millburn Insurance Company Limited (in administration) ("Millburn"), were also involved in insurance schemes other than Solicitors' PII where the cover similarly failed leaving the FSCS with significant liabilities.
7. Mr Reches was central to the establishment and operation of the failed insurance schemes and the Authority considers that he demonstrated a lack of integrity in that he was reckless in disregarding the risk that directing payments of insurance premiums to parties other than the insurers and reinsurers responsible for paying claims could result in insurers and reinsurers being unable to pay claims.
8. In the period 2011/2012, Mr Reches was involved in arranging a scheme whereby solicitors obtained Solicitors' PII from ERIC. This cover was reinsured by Balva and by Sinclair Insurance Company Limited ("Sinclair"), a reinsurance company owned and controlled by Mr Reches. Mr Reches directed payments of the majority of the premiums, paid by solicitors through UK authorised brokers and managing general agent Aderia UK Limited ("Aderia"), to a variety of third parties. Little money from premiums was paid to the insurers ERIC or Balva. As a result, neither had sufficient funds to meet claims and relied upon Sinclair to honour the reinsurance arrangements. Sinclair failed to cover all the reinsurance claims or pay out on its guarantee agreements.
9. In the period 2012/2013, Mr Reches was involved in setting up a similar scheme for Solicitors' PII, but this time with Balva providing the cover, which was reinsured by Sinclair. Again, Mr Reches directed a substantial amount of the solicitors' insurance premiums to a variety of third parties. As a result, Balva did not have sufficient funds to meet claims and again relied upon Sinclair to honour the reinsurance arrangements. Sinclair again failed to cover the reinsurance claims or pay out on its guarantee agreements.
10. Balva's licence to provide insurance was suspended by its home state regulator, the Financial and Capital Market Commission, the Latvian regulatory authority, in April 2013. Mr Reches then negotiated with a third European insurer, Berliner Versicherung Aktiengesellschaft ("Berliner"), to provide the Solicitors' PII cover originally underwritten by Balva. Mr Reches introduced Berliner to a number of brokers and Aderia signed a binding authority agreement with Bar Professions Limited ("Bar") which then offered the replacement cover for the 2012/2013 year, as well as renewal cover for the 2013/2014 year, to solicitors before Berliner had agreed to provide Solicitors' PII to the UK market. More than 900 solicitors accepted the replacement cover.
11. Berliner subsequently signed an agreement to provide replacement cover several weeks later, however only up to a limit of €5m. This was barely sufficient to fund the replacement cover, let alone any renewals or new business in the approaching

policy year. Berliner's agreement was later annulled and more than 900 solicitors' firms were exposed to the risk that they may have been left without mandatory Solicitors' PII cover.

12. Mr Reches, as part of his setting up and running of the insurance schemes, performed the CF1 (Director (AR)) controlled function at an authorised firm (Coverall Worldwide Limited) with responsibility for its appointed representative, Aderia, without approval. Mr Reches was given authority by Aderia to sign documents on behalf of Aderia, however the Authority is of the view that Mr Reches knew, or could reasonably be expected to have known, that in the circumstances he was performing a controlled function without the necessary approval of the Authority for the purposes of section 63A(1) of the Act.
13. As a result of Mr Reches' recklessness as well as his carrying out of a controlled function without the necessary approval, the Authority is of the view that he is not a fit and proper person to perform any function in relation to a regulated activity carried on by an authorised or exempt person, in that his conduct demonstrates a lack of integrity. The Authority also considers it relevant to consideration of his fitness and propriety that Mr Reches is subject to six cease and desist orders issued in 2006 (either in his own name, or that of his companies) in Canada and the USA for selling insurance without a licence and that he has failed to deal with the Authority in an open and cooperative way in relation to disclosing to the Authority information regarding Sinclair's financial position and ability to pay claims.
14. The Authority considers Mr Reches' misconduct to be serious because:
  - a) customers have been exposed to the significant risk that insurers with whom their policies were held would not be able to pay legitimate claims, which could have caused financial loss to those customers;
  - b) his actions contributed to Millburn, ERIC and Balva being placed into administration; and
  - c) the failures resulted in the FSCS having to make substantial payments of claims totalling £9.1m with the forecast final liabilities being £28.8m.
15. Section 63(A)(1) of the Act gives the Authority the power to impose a penalty on an unapproved person. Prohibiting and fining Mr Reches will send a clear deterrent message to unapproved individuals operating in the insurance market and supports the Authority's regulatory objectives of securing an appropriate degree of protection for consumers, and protecting and enhancing the integrity of the UK financial system.
16. Mr Reches has indicated to the Authority that he intends to pay £13.13m to the three insurers, namely ERIC, Balva and Millburn. This payment will deprive Mr Reches of the indirect benefit that the Authority considers he has gained from his misconduct in directing payments out of Solicitors' PII premiums. These monies will make a substantial contribution towards the liabilities of these three insurers, including liabilities to the FSCS and UK policyholders. All three insurers have been declared in default by the FSCS. Other UK policyholders are creditors in the liquidations or administrations of these insurers and will therefore benefit from this payment.

## **DEFINITIONS**

17. The definitions below are used in this Final Notice.

"the Act" means the Financial Services and Markets Act 2000.

"the Additional Penalty" means any of the sum of £13.13m which Mr Reches has not paid to Balva, ERIC and Milburn at the end of the agreed payment term.

"Aderia" means Aderia UK Limited, now known as II&B UK Limited and previously known as JCM Insurance Brokers Limited and JCM Brokers Ltd.

"AR" means appointed representative.

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority.

"BAA" means a binding authority agreement, an agreement whereby an insurer (or its MGA) delegates underwriting authority to another party known as the Coverholder (often an insurance broker) which will act on behalf of the insurer to the extent permitted by the agreement, which frames the responsibilities, entitlements and obligations of the parties.

"Balva" means Balva Insurance Company AAS, a Latvian insurer and a Passported Firm.

"Balva MGA Agreement" means the MGA Agreement, which was signed between Balva and Aderia on 18 August 2011.

"Bar" means Bar Professions Limited (in liquidation) (and its AR, Apro Management Limited), UK-based Coverholders.

"Berliner" means Berliner Versicherung Aktiengesellschaft, a German insurer and Passported Firm.

"Berliner MGA Agreement" means the MGA Agreement, which was signed between Berliner and Aderia on 15 July 2013, and took effect retrospectively from 1 June 2013.

"Coverall" means Coverall Worldwide Limited, a UK insurance intermediary.

"Coverholder" means a company (often an insurance broker) authorised to enter into contracts of insurance, on behalf of an insurer, in accordance with the terms of a BAA.

"the director controlled function" means the Authority's controlled function of CF1 (Director (AR)) at Coverall with responsibility for its AR, Aderia.

"DEPP" means the Authority's Decision Procedure and Penalties Manual.

"EG" means the Authority's Enforcement Guide.

"ERIC" means European Risk Insurance Company, an Icelandic insurer and Passported Firm.

"the FCMC" means the Financial and Capital Market Commission, the Latvian regulatory authority, also known as Finanšu un Kapitāla Tirgus Komisija (the FKTK).

"FIT" means the Authority's Fit and Proper test for Approved Persons.

"FSCS" means the Financial Services Compensation Scheme.

"MGA" means a managing general agent, an insurance intermediary which has contractual authority from one or more insurers to provide underwriting services on their behalf.

"MGA Agreement" means a contractual agreement giving an MGA contractual authority from one or more insurers to provide underwriting services, including negotiating and entering into binding authorities with Coverholders for the sale and fulfilment of policies, on behalf of the insurers.

"Millburn" means Millburn Insurance Company Limited (in administration), a UK insurer.

"Mr Bygrave" means Robert John Bygrave.

"Mr Reches" means Shay Jacob Reches.

"Mrs Sadler" means Andrea Christine Sadler.

"Passported Firm" means a European Economic Area firm exercising its right to conduct activities and services regulated under EU legislation in the UK on the basis of its authorisation in its European Economic Area home state.

"Principal" means an authorised firm which permits its AR(s) to carry on regulated activities under its Part 4A permission given by the Authority under Part 4A of the Act to carry on certain regulated activities.

"Relevant Period" means the period from 1 December 2010 to 23 September 2013.

"Sinclair" means Sinclair Insurance Company Limited, a Union of Comoros insurer now known as Klapton Insurance Company Limited.

"Solicitors' PII" means professional indemnity insurance provided to solicitors.

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber).

## **FACTS AND MATTERS**

### **Background**

18. Mr Reches is a non-EU citizen, an unapproved person and an active entrepreneur in the UK and European insurance market. He owned a UK holding company and through its subsidiary companies and other international companies that he controlled, Mr Reches exercised significant influence and control over a number of

entities including insurers, reinsurers, managing agents and brokers either authorised or operating in the UK market.

19. Between October 2010 and September 2013 Mr Reches invested in a number of insurance companies via a group of companies under his control. Through these companies Mr Reches owned more than 95% of Balva, 9.91% of Millburn, and more than 89% of Sinclair.
20. During the Relevant Period companies under the control of Mr Reches owned 95% of Aderia. Aderia was appointed as the AR of Coverall and Millburn in 2010.
21. As a result of the significant influence and control that Mr Reches exerted over these entities, he was responsible for effecting a number of contractual arrangements in the UK insurance market that resulted in insurance premiums paid by customers being transferred away from the insurers which had responsibility to meet and pay any claims due under the policies issued to the customers.

### **Disciplinary history**

22. In 2005, Mr Reches formed Sinclair in the Union of Comoros and around that time Sinclair began selling insurance policies online.
23. In around 2006, a number of US states and one Canadian province were concerned that Sinclair was entering into insurance transactions through its offshore representative without the required licences in the respective states/province. Investigations were undertaken by six US states as well as the province of British Columbia, Canada, to establish whether the company and/or associated companies and individuals were operating in the insurance market without the appropriate licences.
24. The investigations resulted in Sinclair, an offshore representative (or employees of these companies) and Mr Reches being issued with cease and desist orders from the US states of Idaho, Florida, Nebraska, Arkansas, Washington and the Canadian province of British Columbia. These orders prevented those named from undertaking unlicensed insurance activity within the states/province in question.
25. On 12 September 2011, the Authority published a warning on its website stating that the Authority believed that Sinclair had been providing financial services or products in the UK without authorisation.

### **Mr Reches' role at Aderia**

26. Mr Reches owned Aderia through a group of companies under his control. He did not hold any of the Authority's controlled functions at Coverall or Millburn, the Principals with responsibility for Aderia, but nonetheless controlled and significantly influenced aspects of its business. Mr Reches signed a number of documents on behalf of Aderia pursuant to the delegated authority he had received from the Directors of Millburn and Aderia.
27. Mr Reches undertook a number of tasks in relation to the negotiation and execution of insurance agreements on behalf of Aderia. Specifically he:
  - a) signed the 'Loss Adjusting Agreement' dated 16 May 2011 between Millburn and a claims management firm;

- b) signed the 'Provision of Insurance Services' (the "Balva MGA Agreement") dated 18 August 2011 between Balva and Aderia and a later amendment to this agreement;
  - c) signed the 'Contract Guarantee Cover' dated 6 September 2011 between Millburn, Balva and ERIC;
  - d) signed the 'Solicitors' Professional Indemnity Insurance Handling Parameters Agreement' dated 14 September 2011 between Balva and a claims handling firm;
  - e) signed a 'Fronting Agreement' dated 27 September 2011 between ERIC and Balva to facilitate provision of insurance cover for the UK market;
  - f) signed an agreement dated 6 March 2012 between Aderia and Bar;
  - g) played the key role in negotiating the Berliner MGA Agreement between Aderia and Berliner and signed the agreement dated 15 July 2013 on behalf of Aderia; and
  - h) signed at least 13 other insurance agreements in relation to insurance mediation at Aderia.
28. Mr Reches had influence and control over the board of Aderia. Mr Reches had particular influence over Mrs Sadler, who was approved to perform the CF1 (Director (AR)) controlled function with responsibility for the day-to-day operation of the insurance business and Mr Bygrave, who was approved to perform the CF1 (Director (AR)) controlled function with responsibility for the disbursement of premium monies. In particular, Mr Reches:
- a) instructed Mrs Sadler to sign BAAs between Berliner and Bar and date them from 1 May 2013 before the terms of the underlying MGA Agreement had been concluded;
  - b) provided Mrs Sadler with a script before a meeting with the Authority on 17 July 2013;
  - c) overruled Mrs Sadler when renegotiating the terms of an agreement with a UK broker;
  - d) attended crucial meetings with Berliner and Bar on behalf of Aderia without Mrs Sadler and Mr Bygrave;
  - e) directed Mr Bygrave, who was responsible for the disbursement of premiums, to make payments from Aderia using Solicitors' PII funds to purchase Balva; and
  - f) instructed Mr Bygrave to make a payment of £2.65m on behalf of Aderia, to a European broker as a fee for a proposed reinsurance required by Balva. The reinsurance arrangements were never completed and no money was repaid to Aderia or any other party with responsibility to meet and pay any claims due under the policies issued to customers.
29. Mr Reches controlled the professional relationship with Bar. Specifically, Mr Reches:

- a) controlled the negotiation of the BAA directly with Bar and did not include Mrs Sadler;
- b) did not make Mrs Sadler aware of the discrepancy in underwriting limits contained in Aderia's BAA with Bar (£50m) and the Berliner MGA Agreement with Berliner (€5m);
- c) was responsible for negotiating the Terms of Business Agreements with Bar; and
- d) sourced, negotiated and executed the Solicitors' PII agreement for the policy years 2012/2013 and 2013/2014 involving Balva, Berliner and Bar. Mr Reches signed the MGA Agreement which appointed Aderia as Berliner's MGA, effective from 1 June 2013.

### **Solicitors' professional indemnity insurance**

30. Mr Reches was the controlling influence in three materially similar insurance based schemes for Solicitors' PII that have failed. Specifically:
- a) Solicitors' PII for the 2011/2012 policy year through ERIC;
  - b) Solicitors' PII for the 2012/2013 policy year through Balva; and
  - c) Solicitors' PII for the 2012/2013 and 2013/2014 policy years through Berliner.
31. Whilst performing the director controlled function without approval, the Authority considers that Mr Reches acted recklessly in that he directed the insurance premiums in relation to these Solicitors' PII schemes be transferred away from ERIC, Balva and Sinclair which had the responsibility to meet and pay any claims due under the policies issued to customers. In relation to Solicitors' PII premiums, an amount of in excess of £18.8m net of Coverholders' and brokers' commission was paid out at the direction of Mr Reches, or to companies in which he had an interest or exercised control over. This included amounts paid for claims arising on other insurance schemes which were insured by Millburn and/or reinsured by Sinclair. Less than £2m was paid to insurers as premiums. £13.13m of the funds were used by Mr Reches and his companies to purchase insurance companies, including Balva and Millburn. Mr Reches was central to the establishment and operation of the failed insurance schemes. The Authority considers that Mr Reches was aware that these actions would result in a risk that claims made under the policies would either not be paid, or result in a liability for the FSCS. The Authority is of the view that Mr Reches indirectly benefited from these payments.
32. While influencing and controlling the contractual arrangements, Mr Reches has performed a controlled function at Coverall via its AR, Aderia, without being approved by the Authority and has exercised significant influence over Millburn via its AR, Aderia.

### **Policy year 2011 / 2012**

33. In September 2011 Mr Reches was involved in arranging for ERIC to provide fronting insurance cover in the UK for Solicitors' PII policy year 2011/2012. Mr Reches then arranged for this cover to be reinsured by both Balva, which he had agreed to purchase via companies under his control, and Sinclair. A separate agreement, signed by Mr Reches for Aderia in September 2011, stated that



Balva's liabilities to ERIC were guaranteed by Millburn, however this guarantee was never called on.

34. On 20 September 2011 Mr Reches signed a Solicitors' PII claims handling parameters agreement on behalf of Aderia between Balva and a claims management firm.
35. Balva, via its MGA Aderia, signed an agreement with Bar, which arranged for Solicitors' PII policies to be sold to UK solicitors and ultimately took receipt of the premium paid.
36. An amount of in excess of £7.1m net of Coverholders' and brokers' commission was paid to companies under the control of Mr Reches in relation to Solicitors' PII premiums. Less than £1.2m was paid to ERIC (and none to Balva) as premiums. The majority of the funds were used by Mr Reches and his companies to purchase insurance companies, including Balva and Millburn.
37. Under instruction from Mr Reches, purporting to be acting on behalf of Aderia, the broker arranged for the disbursement of these funds. As a result of these arrangements insufficient funds were paid to insurers and they were unable to meet all claims as they fell due.
38. Both Millburn and Balva disputed their liability under the agreements signed by Mr Reches. Millburn also stated that documents were signed without its authority or knowledge. In addition, Sinclair has failed to pay out for a substantial number of claims made under Solicitors' PII policies sold.
39. ERIC was subsequently placed into administration. The FSCS declared it in default on 28 April 2013 and as a result, the FSCS has estimated liabilities of £9m as a result of the failure of ERIC to meet claims.

### **Policy year 2012 / 2013**

40. Balva was granted permission to provide insurance in the UK on 28 November 2011. In August 2011 Mr Reches, via companies under his control, agreed to purchase more than a 95% shareholding in Balva. Payment for the shares was made in tranches between November 2011 and October 2012. The money for the share purchases came from premiums paid by customers for Solicitors' PII policies.
41. Mr Reches signed an agreement with Bar on behalf of Aderia in March 2012. This agreement permitted Bar to offer Solicitors' PII underwritten by Balva to the UK market.
42. Mr Reches signed an agreement in July 2012 which purported to commit Millburn to reinsure some of Balva's liabilities. In the same month Mr Reches arranged for Sinclair to act as guarantor to Millburn for all of its liabilities to Balva for 2012.
43. In September 2012 Mr Reches signed a Qualifying Insurer's Agreement with the Law Society of England and Wales on behalf of Balva. The agreement permitted Balva to provide Solicitors' PII to customers in England and Wales.
44. Millburn disputed its liability to Balva under the reinsurance agreement and Mr Reches therefore made arrangements for other insurers to replace Millburn. The replacement arrangements were such that Sinclair continued to carry the liability for the scheme by acting as guarantor.

45. An amount of £13.3m net of Coverholders' and brokers' commission was paid to Aderia in relation to Solicitors' PII premiums, but less than £0.3m was paid to Balva as premium. The majority of the funds were used by Mr Reches and his companies to purchase insurance companies (including Balva and Millburn) or to increase their capital, paying claims arising on other insurance schemes insured by Millburn and/or reinsured by Sinclair and lending sums to Balva.
46. Under instruction from Mr Reches, Mr Bygrave disbursed the funds received from Solicitors' PII premium.
47. Despite requests from Balva, Sinclair failed to provide sufficient funds to cover its liability as reinsurer. This resulted in the FSCS declaring Balva in default on 4 July 2014. The result of this is that the FSCS has estimated liabilities of £13.8m because of the failure of the insurers to meet claims.
48. In order to comply with the regulatory requirements of the FCMC, Mr Reches arranged for a third party insurer to reinsure Balva's liabilities relating to Solicitors' PII. Mr Reches arranged for a payment of £2.65m to be made to the third party insurer as a fee. This reinsurance agreement lapsed without any repayment of fees leaving Sinclair as Balva's reinsurer despite this arrangement not meeting the express regulatory requirements of the FCMC.
49. Balva's licence to underwrite UK insurance business was suspended by the FCMC in April 2013, and was completely withdrawn in June 2013. Balva subsequently entered into liquidation. Aderia therefore needed to find replacement cover for the remainder of that policy year and prior to the renewal period for the 2013/2014 year.

**Policy year 2013 / 2014 (including part of 2012/2013 with Berliner)**

50. In or around April 2013, Mr Reches began negotiating with Berliner on behalf of Aderia in order to secure the Berliner MGA Agreement.
51. Prior to the Berliner MGA Agreement being executed, Aderia entered into BAAs with Coverholders authorising them to transact insurance business on behalf of Berliner. This included entering into a BAA with Bar, which was signed on 17 May 2013. The underwriting limits in these agreements were beyond the €5m limit subsequently granted by the Berliner MGA Agreement.
52. On 23 May 2013 Mr Reches signed a qualifying insurer's agreement with the Law Society of England and Wales on behalf of Berliner. The agreement allowed Berliner to provide Solicitors' PII to customers in England and Wales.
53. With this qualifying insurer's agreement in place, and as Aderia had signed the BAA with Bar which purported to give Bar authority to write Solicitors' PII on behalf of Berliner, Bar decided in late May/early June 2013, to send an offer letter to its customers. This offer letter advised that Balva had been suspended and offered customers alternative arrangements with Berliner for the remainder of the 2012/2013 year as well as for the 2013/2014 year. At the time these offer letters were sent, no underlying MGA Agreement had been signed between Aderia and Berliner and there was therefore a risk that no replacement insurance would be available for customers who held policies written by Balva.
54. The Berliner MGA Agreement was ultimately only signed on 15 July 2013 by Berliner and Mr Reches on behalf of Aderia some six weeks after the offer letter was sent by Bar. The Berliner MGA Agreement (which retrospectively authorised Aderia to issue BAAs to Coverholders from 1 June 2013) set an annual premium

income limit for Solicitors' PII policies of €5m, representing the maximum exposure that Berliner was prepared to underwrite. This was inconsistent with the annual premium income limit granted to Bar by Aderia of £50m (in respect of the cover Berliner could offer for Solicitors' PII). It also meant that the underwriting limit of €5m was exhausted by the replacement cover for the Solicitors' PII policies insured by Balva for the 2012/2013 policy year. This meant that there would have been no capacity available for the proposed renewal cover into the 2013/2014 policy year.

55. After becoming aware of the anomalies regarding the underwriting limits granted to Bar, Berliner met with Aderia and the Berliner MGA Agreement was annulled with the mutual consent of Aderia and Berliner on 23 September 2013. As a consequence, over 900 solicitors' firms, which took up the offer of replacement and renewal cover as set out in the offer letter, were faced with the prospect of having no compulsory Solicitors' PII in place for the 2012/2013 policy year and were required to seek new cover from different providers for the 2013/2014 policy year or cease practising as solicitors.

#### **Non-solicitors' professional indemnity insurance transactions**

56. Mr Reches had influence over three schemes insured by Millburn that failed. Mr Reches signed BAAs on behalf of Millburn via Aderia for the schemes. Specifically:
- a) an agreement, dated 13 January 2011, with a UK broker in respect of policies in the classes of Damage to Property, Goods in Transit and Miscellaneous Financial Loss;
  - b) an agreement with a UK broker in respect of schools staff absence in the UK, dated 9 March 2011; and
  - c) an agreement with a European broker specialising in motorsport insurance in respect of race, rally and motorbike on event/on track insurance.
57. In all three schemes the responsibility to meet the cost of claims ultimately fell to Sinclair as guarantor/reinsurer of Millburn. Sinclair failed to provide sufficient funds to meet all claims made under the policies and as a result, Millburn entered into administration.
58. The FSCS declared Millburn in default on 11 December 2013 and as a result the FSCS has estimated liabilities of £5.9m.

#### **Mr Reches' knowledge/awareness that he was undertaking controlled functions which required him to be approved**

59. Mr Reches has over 40 years of experience in the insurance market including in the UK. Mr Reches stated in interview with the Authority that he knew that active involvement in insurance companies beyond simple investment could require approval by the Authority.
60. Mr Reches also had a close involvement in the recruitment of approved persons to work at Aderia, such as Mrs Sadler. The details he provided to the Authority at interview about the need for Aderia to have approved persons in charge demonstrates an understanding of the need for approval to carry out certain functions at both authorised firms and their ARs.
61. Mr Reches has a clear understanding of the need for approval from regulators in international jurisdictions as well as in the UK. Mr Reches had previous

engagement with the Authority in 2010 from which he would have been aware of the relevant requirements of the UK regulatory system.

### **Reinsurance arrangements**

62. As set out above as a result of the reinsurance arrangements made by Mr Reches, the liability for the Solicitors' PII policies in 2011/2012, 2012/2013 and 2013/2014 and Millburn ultimately rested with Sinclair.
63. Sinclair is owned by companies under the control of Mr Reches and he is the Director and key decision maker. Mr Reches was best placed to understand the financial status of Sinclair and signed the agreements referred to above with ERIC and Balva that relied on Sinclair's ability to offer effective guarantees/reinsurance.
64. The failure of the reinsurance arrangements made by Mr Reches led to ERIC, Balva and Millburn entering into administration due to debts owed by Sinclair. Mr Reches informed the Authority that the failure to honour reinsurance obligations was a result of funds being frozen in Cyprus. However, Mr Reches has provided no evidence to substantiate his claim that the funds have been frozen, nor has he demonstrated that Sinclair would have had sufficient funds to have met its reinsurance liabilities (were it not for the accounts purportedly being frozen).
65. In May 2013, despite funds in Cyprus apparently being frozen, Mr Reches committed Sinclair to guarantee and reinsure the liabilities of Balva.
66. After the Cypriot banking crisis began, Millburn sought assurances from Sinclair's overseas auditor that it was solvent and had adequate resources to continue to meet its obligations in the foreseeable future. In July 2013, these assurances were given, but Sinclair has not paid its reinsurance guarantees to ERIC, Balva or Millburn.

### **Lack of co-operation with the Authority's investigation**

67. Despite repeated requirements, Mr Reches has provided insufficient information in relation to Sinclair's financial situation, including where the relevant funds are held and its ability to pay claims.
68. In particular, Mr Reches has provided no evidence to substantiate the assertion that Sinclair's funds were frozen in Cyprus, being the primary reason provided by Mr Reches for Sinclair's inability to pay claims.

### **FAILINGS**

69. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
70. On the basis of the facts and matters described above, the Authority considers that during the Relevant Period Mr Reches performed a controlled function without approval knowing (or being of such knowledge and experience that he could reasonably be expected to know) that he was performing a controlled function without approval for the purposes of section 63A(1) of the Act.
71. The relevant sections of FIT are set out in Annex A to this Notice. FIT 1.3.1G states that the Authority will have regard to, among other things, a person's honesty and integrity and competence and capability when assessing the fitness and propriety of a person to perform a particular controlled function. As a result of the failings described above, the Authority considers that Mr Reches' conduct

has fallen short of minimum regulatory standards and that he is not a fit and proper person.

72. In particular, the Authority considers that Mr Reches' conduct demonstrates a lack of integrity in that he was reckless in disregarding the risk that directing payments of insurance premiums to parties other than the insurers and reinsurers responsible for paying claims could result in insurers and reinsurers being unable to pay claims.

### **Section 63A(1) of the Act**

73. Mr Reches performed the director controlled function without approval knowing (or being of such knowledge and experience that he could reasonably be expected to know) that he was performing a controlled function without approval. In particular, Mr Reches:
- a) performed the director controlled function at Coverall with responsibility for its AR, Aderia, without the requisite approval of the Authority, including the execution of agreements on behalf of Aderia;
  - b) influenced and directed the day to day operations of Aderia and, in particular, the actions of Mrs Sadler and Mr Bygrave;
  - c) instructed Mr Bygrave to transfer Solicitors' PII premiums to third parties, rather than directly to the relevant insurers;
  - d) controlled the professional relationships of Aderia with Bar;
  - e) executed numerous insurance agreements on behalf of Aderia during the Relevant Period;
  - f) sourced, negotiated and executed for Aderia the Solicitors' PII agreements for the policy years 2011/2012, 2012/2013 and 2013/2014 involving ERIC, Balva and Berliner; and
  - g) has significant experience in the insurance market and was aware of the need for individuals to be approved by the Authority in the UK in order to carry out certain tasks.

### **FIT 2**

74. Further, the Authority considers that Mr Reches was not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised or exempt person, in that he showed a lack of integrity, in breach of FIT 2.1. In particular he:
- a) exercised control over Coverall and influence over Millburn (as an unapproved person) in that he directed the regulated insurance business of these firms without the requisite approval to perform the CF1 (Director (AR)) controlled function;
  - b) put in place guarantees and/or reinsurance arrangements backed by Sinclair when he was aware of the clear risk that it was unlikely to meet claims;

- c) directed that insurance premiums from customers be transferred to parties other than the insurers which had the responsibility for paying claims. He was aware of the clear risk that such arrangements would lead to a failure in cover but unreasonably took that risk. The subsequent failure of these reinsurance and guarantee arrangements has contributed to ERIC, Balva and Millburn being placed into administration, and left the FSCS with estimated liabilities of £28.8m. These FSCS liabilities are funded by authorised firms through the FSCS annual levy;
- d) arranged for the Solicitors' PII cover with Balva to move to Berliner during the 2012/2013 and 2013/2014 policy years when he knew or could reasonably be expected to have known that the amount of cover offered by Berliner was insufficient to satisfy the offers Bar was making to solicitor customers. This contributed to Berliner withdrawing from the UK market potentially leaving a number of solicitors without Solicitors' PII cover;
- e) acted recklessly, by continuing to commit Sinclair to reinsurance and guarantee insurance liabilities despite the fact that he was aware that there was a risk that the funds which were required to meet claims were frozen in Cyprus; and
- f) is subject to a number of cease and desist orders (either in his own name, or that of companies under his control) in Canada and the US. These orders were imposed as Mr Reches and companies under his control were selling insurance without the appropriate licences.

## **SANCTION**

### **Financial Penalty**

- 75. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In respect of conduct occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5B sets out the details of the five-step framework that applies in respect of financial penalties imposed on individuals in non-market abuse cases.
- 76. The application of the Authority's penalty policy is set out in Annex B to this Notice in relation to Mr Reches' breach of section 63A of the Act.
- 77. In determining the financial penalty to be attributed to Mr Reches' misconduct, the Authority had particular regard to the following matters:
  - a) the need for credible deterrence;
  - b) the nature, seriousness and impact of the breach;
  - c) the extent to which the breaches were deliberate or reckless;
  - d) the risk of consumer detriment as a result of Mr Reches' failings; and
  - e) any applicable settlement discount for agreeing to settle at an early stage of the Authority's investigation.
- 78. The Authority therefore imposes on Mr Reches a financial penalty pursuant to section 63A(1) of the Act of £1,050,000 plus the Additional Penalty.

## **Prohibition**

79. The Authority has had regard to the guidance in Chapter 9 of EG (the relevant provisions of which are set out in Annex A to this notice).
80. Given the nature and seriousness of the failures outlined above, the Authority considers that Mr Reches' conduct demonstrated a serious lack of integrity.
81. The Authority considers that Mr Reches acted recklessly in conducting regulated activities whilst unapproved. Further, he failed to co-operate with the Authority's investigation. It is therefore appropriate and proportionate in all the circumstances, and supports the Authority's consumer protection objective, to prohibit Mr Reches from performing any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm.

## **PROCEDURAL MATTERS**

### **Decision maker**

82. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.
83. This Final Notice is given under, and in accordance with, section 390 of the Act.

### **Manner of and time for Payment**

84. The financial penalty must be paid in full by Mr Reches to the Authority in the manner outlined below:
  - a) £1,050,000 in equal instalments of (i) £37,500 on or before 14 March 2016, 14 June 2016, 14 September 2016 and 14 December 2016; (ii) £75,000 on or before 14 March 2017, 14 June 2017, 14 September 2017 and 14 December 2017; and (iii) £150,000 on or before 14 March 2018, 14 June 2018, 14 September 2018 and 14 December 2018.
  - b) £13,130,000 less any amounts which the Authority has confirmed in writing to Mr Reches and/or his legal representative that it is satisfied as having been paid by Mr Reches to: Millburn, Balva and ERIC by no later than 1 February 2020, 48 months from the date of the Final Notice.

### **If the financial penalty is not paid**

85. In the event that Mr Reches does not pay any single instalment of the £1,050,000 in full within one month of its specified due date set out in paragraph 84 a) above, then interest shall accrue on the unpaid instalment at the rate of 8% per annum and in the event that Mr Reches does not pay any single instalment in full within three months of its specified due date, the remaining sum of £1,050,000 plus accrued interest (less any amounts paid to the Authority) shall become immediately due and the Authority may recover the outstanding amount owed by Mr Reches as a debt owed by Mr Reches and due to the Authority, including interest thereon at a rate of 8% per annum.
86. In the event that Mr Reches does not pay the full £13,130,000 to Millburn, Balva or ERIC, by 1 February 2020 (or has defaulted in making payments to one of

more of them and it is confirmed that Mr Reches is expected to remain in default), the outstanding amount will become immediately due to the Authority and the Authority may recover the outstanding amount as a debt owed by Mr Reches and due to the Authority, including interest thereon at a rate of 8% per annum.

### **Publicity**

87. 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 Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
88. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority contacts**

89. For more information concerning this matter generally, contact Paul Howick (direct line: 020 7066 7954 /email: paul.howick@fca.org.uk) of the Enforcement and Market Oversight Division of the Authority.

---

**Bill Sillett**

**Financial Conduct Authority, Enforcement and Market Oversight Division**



## **ANNEX A**

### **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

#### **RELEVANT STATUTORY PROVISIONS**

1. The Authority's statutory objectives, set out in section 1B(3) of the Act, include the consumer protection objective and integrity objectives.
2. Section 56 of the Act provides that the Authority may 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 Authority 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 a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity. Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description, or all regulated activities.
3. Section 63A of the Act provides that if the Authority is satisfied that a person ("P") has at any time performed a controlled function without approval and at that time P knew, or could reasonably be expected to have known, that P was performing a controlled function without approval, it may impose a penalty on P of such amount as it considers appropriate. For the purposes of this section P performs a controlled function without approval at any time if at that time P performs a controlled function under an arrangement entered into by an authorised person ("A"), or by a contractor of A in relation to the carrying on by A of a regulated activity; and the performance by P of the function was not approved under section 59.

#### **RELEVANT REGULATORY PROVISIONS**

##### **The Fit and Proper Test for Approved Persons**

4. The part of the Authority's Handbook entitled 'The Fit and Proper Test for Approved Persons' (FIT) sets out the criteria that the Authority will consider when 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.
5. FIT 1.3.1G states that the Authority will have regard to a number of factors when assessing the fitness and propriety of a person. The most important considerations will be the person's honesty, integrity and reputation, competence and capability and financial soundness.

#### **DEPP**

6. Chapter 6 of DEPP sets out the Authority's statement of policy with respect to the imposition and amount of financial penalties under the Act.
7. DEPP 6.5D.2G states that:
  - (1) In assessing whether a penalty would cause an individual serious financial hardship, the FCA will consider the individual's ability to pay the penalty over

a reasonable period (normally no greater than three years). The FCA's starting point is that an individual will suffer serious financial hardship only if during that period his net annual income will fall below £14,000 and his capital will fall below £16,000 as a result of payment of the penalty. Unless the FCA believes that both the individual's income and capital will fall below these respective thresholds as a result of payment of the penalty, the FCA is unlikely to be satisfied that the penalty will result in serious financial hardship.

- (2) The FCA will consider all relevant circumstances in determining whether the income and capital threshold levels should be increased in a particular case.
- (3) The FCA will consider agreeing to payment of the penalty by instalments where the individual requires time to realise his assets, for example by waiting for payment of a salary or by selling property.
- (4) For the purposes of considering whether an individual will suffer serious financial hardship, the FCA will consider as capital anything that could provide the individual with a source of income, including savings, property (including personal possessions), investments and land. The FCA will normally consider as capital the equity that an individual has in the home in which he lives, but will consider any representations by the individual about this; for example, as to the exceptionally severe impact a sale of the property might have upon other occupants of the property or the impracticability of re-mortgaging or selling the property within a reasonable period.
- (5) The FCA may also consider the extent to which the individual has access to other means of financial support in determining whether he is able to pay the penalty without being caused serious financial hardship.
- (6) Where a penalty is reduced it will be reduced to an amount which the individual can pay without going below the threshold levels that apply in that case. If an individual has no income, any reduction in the penalty will be to an amount that the individual can pay without going below the capital threshold.
- (7) There may be cases where, even though the individual has satisfied the FCA that payment of the financial penalty would cause him serious financial hardship, the FCA considers the breach to be so serious that it is not appropriate to reduce the penalty. The FCA will consider all the circumstances of the case in determining whether this course of action is appropriate, including whether:
  - a) the individual directly derived a financial benefit from the breach and, if so, the extent of that financial benefit;
  - b) the individual acted fraudulently or dishonestly with a view to personal gain;
  - c) previous FCA action in respect of similar breaches has failed to improve industry standards; or
  - d) the individual has spent money or dissipated assets in anticipation of FCA or other enforcement action with a view to frustrating or limiting the impact of action taken by the FCA or other authorities.

## **The Enforcement Guide**

8. The Enforcement Guide (EG) sets out the Authority's approach to exercising its main enforcement powers under the Act.
9. Chapter 7 of EG sets out the Authority's approach to exercising its power to impose a financial penalty.

### **The Authority's policy for exercising its power to make a prohibition order**

10. The Authority's policy in relation to prohibition orders is set out in Chapter 9 of the Enforcement Guide ("EG").
11. EG 9.1 states that the Authority may exercise this power where it considers that, to achieve any of its regulatory objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.
12. EG 9.17 states where the Authority is considering making a prohibition order against an individual other than an individual referred to in EG 9.8 to 9.14, the Authority will consider the severity of the risk posed by the individual, and may prohibit the individual where it considers this is appropriate to achieve one or more of its statutory objectives.
13. EG 9.18 states when considering whether to exercise its power to make a prohibition order against such an individual, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, where appropriate, the factors set out in EG 9.9.
14. The relevant factors set out in EG 9.9 are:
  - (1) the matters set out in section 61(2) of the Act.
  - (2) 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 2.1 (Honesty, integrity and reputation); FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness).
  - (5) the relevance and materiality of any matters indicating unfitness.
  - (8) the severity of the risk which the individual poses to consumers and to confidence in the financial system.
  - (9) the previous disciplinary record and general compliance history of the individual including whether the Authority, any previous regulator, designated professional body or other domestic or international regulator has previously imposed a disciplinary sanction on the individual.

## **ANNEX B**

### **PENALTY ANALYSIS**

1. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In respect of conduct occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5B sets out the details of the five-step framework that applies in respect of financial penalties imposed on individuals in non-market abuse cases. The Relevant Period in this case is from 1 December 2010 to 23 September 2013 and therefore the five-step penalty framework applies.

#### **Step 1: disgorgement**

2. Pursuant to DEPP 6.5B.1G, at Step 1 the Authority seeks to deprive an individual of the financial benefit derived directly from the breach where it is practicable to quantify this.
3. The Authority has been unable to identify any significant income or direct financial benefit that Mr Reches received personally in connection with the activities to which the breaches relate.
4. Step 1 is therefore £0.

#### **Step 2: the seriousness of the breach**

5. Pursuant to DEPP 6.5B.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. That figure is based on a percentage of the individual's relevant income. The individual's relevant income is the gross amount of all benefits received by the individual from the employment in connection with which the breach occurred, and for the period of the breach. In determining the relevant income, "benefits" include, but are not limited to, salary, bonus, pension contributions, share options and share schemes and "employment" includes, but is not limited to, employment as an adviser, director, partner or contractor. Mr Reches provided evidence that he did not personally receive any relevant income during the Relevant Period.
6. The Authority considers Mr Reches received no relevant income during the Relevant Period.
7. In deciding on the percentage of the relevant income that forms the basis of the Step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 40%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on individuals in non-market abuse cases there are the following five levels:  
  
Level 1 – 0%  
Level 2 – 10%  
Level 3 – 20%  
Level 4 – 30%  
Level 5 – 40%
8. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly.

9. DEPP 6.5B.2G(12) lists factors likely to be considered 'level 4 or 5 factors'. Of these the Authority considers the following factors to be relevant:
- a) The actions of Mr Reches in diverting the premiums away from the insurers with responsibility to pay claims arising from policies provided him with an indirect benefit. In particular, money from premiums paid by customers was used either by Mr Reches or by companies of which he was the sole or majority owner, to expand their business, for example by purchasing Balva and Millburn (DEPP 6.5B.2G(8)(a)).
  - b) Mr Reches' misconduct and recklessness created a significant risk of loss to consumers. By diverting premiums away from the insurers with responsibility to pay out on claims, policyholders have been left at risk of their policies not paying out in the event of a claim. As a result, the FSCS has made payments in excess of £9.1m with its forecast final liabilities being £28.8m (DEPP 6.5B.2G(8)(b)).
  - c) Mr Reches' misconduct and recklessness contributed to failings in cover in three consecutive years in parts of the Solicitors' PII market. These actions had an adverse effect on the Solicitors' PII market, particularly in respect of the orderliness of and confidence in this market (DEPP 6.5B.2G(8)(f)).
  - d) The failure of the reinsurer, Sinclair, which is owned and controlled by Mr Reches was a significant factor in the administration and FSCS default of Millburn, ERIC and Balva (DEPP 6.5B.2G(8)(f)).

**DEPP 6.5B.2G(9) – Factors relating to the nature of the breach:**

- a) The Authority considers that throughout the Relevant Period, Mr Reches behaved with a lack of integrity in that he acted recklessly (DEPP 6.5B.2G(9)(e)).
- b) Mr Reches is an experienced insurance/reinsurance professional and has over 40 years' experience in the insurance industry in markets across the world. He holds senior positions in a number of companies involved in the insurance and reinsurance market (DEPP 6.5B.2G(9)(i)).
- c) Mr Reches' actions in carrying out a controlled function were conducted in relation to a regulated activity in that his actions were directly connected to, or in pursuit of, sourcing, arranging and executing insurance and reinsurance contracts. As such, in relation to a contravention of section 63A, he performed controlled functions at Aderia without approval and, while doing so, committed misconduct in respect of which, if he had been an approved person, the Authority would have been empowered to take action pursuant to section 66 (DEPP 6.5B.2G(9)(q)).
- d) For the reasons outlined at paragraphs 59–61 above, the Authority considers that Mr Reches could reasonably be expected to have known that he was performing a controlled function without approval (DEPP 6.5B.2G(9)(r)).

**DEPP 6.5B.2G(11) – Factors tending to show the breach was reckless:**

- a) Mr Reches appreciated or could reasonably be expected to have appreciated there was a risk that his actions or inaction could result in a breach and failed adequately to mitigate that risk (DEPP 6.5B.2G(11)(a)).

**DEPP 6.5B.2G(12) - Factors likely to be considered 'level 4 or 5 factors':**

- a) Mr Reches' failures exposed customers to significant risk that insurers with which their policies were held would not be able to pay out legitimate claims and thereby cause loss and detriment to those customers; his actions contributed to one UK insurer (Millburn) and two European insurers (ERIC and Balva) going into administration and resulted in the FSCS having to make substantial compensation payments (DEPP 6.5B.2G(12)(a)).
- b) Mr Reches failed to act with integrity, in that he was reckless (DEPP 6.5B.2G(12)(d)-(g)).

10. Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 5 and so the Step 2 figure is 40% of £0.

11. Step 2 is therefore £0.

**Step 3: mitigating and aggravating factors**

12. Pursuant to DEPP 6.5B.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.

13. The Authority considers that the following factor aggravates the breach:

- a) Mr Reches has not cooperated fully and openly with the Authority's investigation. He has failed to meet deadlines for responses and failed to reply either fully or at all to a number of important information requirements, to the extent that non-co-operation is one of the reasons why the Authority considers Mr Reches is not a fit and proper person (DEPP 6.5B.3G(2)(b)).

14. Having taken into account this aggravating factor, the Authority considers that the Step 3 figure should be increased by 30%.

15. Step 3 is therefore £0.

**Step 4: adjustment for deterrence**

16. Pursuant to DEPP 6.5B.4G, if the Authority considers the figure arrived at after Step 3 is insufficient to deter the individual who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.

17. The Authority does not consider that a penalty of £0 is sufficient to act as a credible deterrent to the market (DEPP 6.5B.4G(1)(a)).

18. The Authority considers that a penalty comprising a punitive element of £1.5m together with the Additional Penalty to deprive Mr Reches of the indirect benefit he has received from his misconduct is required at Step 4 figure to act as a sufficient credible deterrent. This is because the Authority considers that:
- a) Mr Reches has received an indirect benefit from his misconduct amounting to £13.13m;
  - b) Mr Reches' actions were particularly serious in that they exposed numerous consumers to significant risk of loss and contributed to the failure of three insurers;
  - c) Mr Reches' actions led to millions of pounds of premiums paid by customers being diverted away from insurers at his direction, or to companies in which he had an interest or exercised control over; and
  - d) Mr Reches' actions have had a substantial impact on the FSCS leaving it with significant liabilities.
19. Step 4 is therefore £1,500,000 plus the Additional Penalty.

#### **Step 5: settlement discount**

20. Pursuant to DEPP 6.5B.5G, if the Authority and the individual on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the individual reached agreement.
21. The Authority and Mr Reches reached agreement at Stage 1 and so a 30% discount applies to the punitive element of the Step 4 figure. The 30% discount does not apply to the Additional Penalty referred to in paragraphs 23 to 24 below.
22. Step 5 is therefore £1,050,000 plus the Additional Penalty.

#### **Additional Penalty**

23. Mr Reches has indicated to the Authority that he intends to pay £13,130,000 to three insurers, namely ERIC, Balva and Millburn. This payment will deprive Mr Reches of the indirect benefit that the Authority considers he has gained from his misconduct in directing payments out of Solicitors' PII premiums. These monies will make a substantial contribution towards the liabilities of these insurers, including liabilities to the FSCS and UK policyholders. All three insurers have been declared in default by the FSCS. Other UK policyholders are creditors in the liquidations or administrations of these insurers and will therefore benefit from these payments.
24. If and to the extent that any or all of the sum of £13,130,000 is not paid at the end of the agreed payment term, such sum will be due and payable to the Authority as an additional penalty.

## **Penalty**

25. The Authority has therefore imposed on Mr Reches, a combined penalty of £1,050,000 plus the Additional Penalty.