
FINAL NOTICE

To: Neil Danziger
Date of Birth: 01 April 1975
Authority Reference Number: NAD01035
Date: 8 January 2018

ACTION

1. For the reasons given in this Notice, the Authority hereby:
 - (1) imposes on Neil Danziger a financial penalty of £250,000 pursuant to section 66 of the Act; and
 - (2) makes an order, pursuant to section 56 of the Act, prohibiting Mr Danziger from performing any function in relation to any regulated activity carried on by an authorised or exempt person, or exempt professional firm. This order takes effect from the date of this Notice.

SUMMARY OF REASONS

2. The Authority has decided to take this action because during the period from 14 February 2007 until 22 November 2010, Mr Danziger was knowingly concerned in a contravention of Principle 5 by RBS in relation to LIBOR. In addition, between 19 September 2008 and 25 August 2009, Mr Danziger recklessly entered into Wash Trades for the purpose of making or facilitating brokerage payments to Brokers for no legitimate commercial reason, which further demonstrates his lack of integrity.

London Interbank Offered Rate

3. LIBOR is a benchmark reference rate fundamental to the operation of both UK and international financial markets. Its integrity is of fundamental importance to confidence in the financial system.
4. LIBOR is published daily in a number of currencies and maturities. It is based on the cost of borrowing in the interbank market and Panel Banks make daily submissions to an external administrator to enable LIBOR to be calculated. Until 31 January 2014, LIBOR was administered by the BBA and was set according to a definition published by the BBA.

RBS Final Notice

5. On 6 February 2013 the Authority gave RBS a Final Notice, imposing a financial penalty of £87.5 million for significant failings in relation to LIBOR. The RBS Final Notice describes how, among other breaches, RBS breached Principle 5, which provides that a firm must observe proper standards of market conduct.

Mr Danziger's misconduct in relation to LIBOR submissions

6. Mr Danziger acted improperly and was knowingly concerned in RBS's breach of Principle 5 in the following ways:
 - (1) he made JPY LIBOR requests to Primary Submitters, in an attempt to influence RBS's LIBOR submissions;
 - (2) he made JPY LIBOR submissions, when acting as a Substitute Submitter, which took into account requests of other RBS Derivatives Traders;
 - (3) also when acting as a Substitute Submitter, he took into account Trading Positions for which he and other Derivatives Traders were responsible when making JPY LIBOR submissions; and
 - (4) he obtained a Broker's assistance to attempt to influence other Panel Banks to change their JPY LIBOR submissions.
7. Mr Danziger knew that the definition of LIBOR required submissions from Panel Banks based on the rate at which borrowing and lending in the interbank market could take place. He knew that Trading Positions were not a relevant factor under the definition.
8. Mr Danziger was motivated by an intention to benefit Trading Positions for which he and others were responsible when making JPY LIBOR requests to Primary Submitters, and when making JPY LIBOR submissions which took into account those Trading Positions. He also knew that in making requests to him, Derivatives Traders were motivated by profit and seeking to benefit their own Trading Positions.
9. Mr Danziger deliberately closed his mind to the risk that taking Trading Positions into account was contrary to proper standards of market conduct. In doing so, he acted recklessly, and therefore with a lack of integrity.

Wash trades

10. Mr Danziger also engaged in Wash Trades, with the purpose of paying brokerage to Brokers for no legitimate commercial reason; in doing this he deliberately closed his mind to the risk that it was improper. In doing so, he acted recklessly, and therefore with a lack of integrity.

Sanction

11. The UK and international financial system relies on the integrity of benchmark reference rates such as LIBOR. Mr Danziger's misconduct as a JPY Derivatives Trader and Substitute Submitter threatened confidence in the integrity of the UK financial system and could have caused significant harm to other market participants.
12. Mr Danziger was an approved person. Approved persons must act with integrity. Mr Danziger's actions, as set out above, were reckless and therefore also lacked integrity.
13. In the light of the seriousness of the matters summarised at paragraphs 6 to 9 of this Notice, Mr Danziger's misconduct warrants the imposition of a significant penalty. The Authority therefore considers it appropriate to impose a financial penalty of £250,000.
14. In addition, as a result of his lack of integrity, the Authority considers that Mr Danziger is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm and, as such, should be prohibited from doing so.

DEFINITIONS

15. The definitions below are used in this Notice:

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

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

"BBA" means the British Bankers' Association, which, until 31 January 2014, was the administrator of LIBOR;

"Broker" means an interdealer broker who acted as intermediary in, amongst other things, deals for funding in the cash markets and interest rate derivative contracts. Broker A is specifically referred to in this Notice, and is the same person as Broker A in the RBS Final Notice;

"Broker Firm" means a firm that employed Brokers. Broker Firm 1 is specifically referred to in this Notice and is the same firm as Broker Firm 1 in the RBS Final Notice;

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

"Derivatives Trader" means an employee of RBS trading interest rate derivatives. Derivatives Trader C is specifically referred to in this Notice, and is the same person as Derivatives Trader C in the RBS Final Notice;

"EG" means the Authority's Enforcement Guide;

"ENF" means the Authority's Enforcement Manual;

"External Trader" means an employee of a Panel Bank other than RBS, trading interest rate derivatives. External Trader A is specifically referred to in this Notice, and is the same person as External Trader A in the RBS Final Notice;

"FIT" means the Authority's Fit and Proper test for Approved Persons and specified significant-harm functions;

"JPY" means Japanese Yen;

"JPY LIBOR" means the London Interbank Offered Rate for JPY;

"LIBOR" means the London Interbank Offered Rate;

"Manager" means an employee of RBS with direct line management responsibility over Derivatives Traders and/or Primary Submitters and/or Substitute Submitters (e.g. a head of desk). Manager A is specifically referred to in this Notice and is the same person as Manager A in the RBS Final Notice;

"Money Market Trader" means an employee of RBS with primary responsibility for trading cash and managing the funding needs of RBS.

"Panel Bank" means a bank with a place on the administrator of LIBOR's panel (the BBA's panel during the Relevant Period) for contributing LIBOR submissions in one or more currencies. Panel Banks 3, 4, 5 and 6 are specifically referred to in this Notice and correspond with Panel Banks 3, 4, 5 and 6 in the RBS Final Notice;

"Primary Submitter" means a Money Market Trader who had responsibility for making RBS's LIBOR submissions. Primary Submitter B is specifically referred to in this Notice and is the same person as Primary Submitter B in the RBS Final Notice;

"Principle 5" means Principle 5 of the Authority's Principles for Businesses;

"RBS" means The Royal Bank of Scotland plc;

"RBS Final Notice" means the Final Notice dated 6 February 2013 given to The Royal Bank of Scotland plc by the Authority;

"Relevant Period" means the period from 14 February 2007 to 22 November 2010;

"Submitter" means an employee responsible for determining and making LIBOR submissions on behalf of a Panel Bank;

"Substitute Submitter" means a Derivatives Trader who on occasion made RBS's LIBOR submissions;

"Trading Position" means a trading book position held either in respect of derivative positions or money market positions;

“Tribunal” means the Upper Tribunal (Tax and Chancery Chamber); and

“Wash Trades” means risk free trades, with the same party, in pairs that cancelled each other out and for which there was no legitimate commercial purpose.

RELEVANT REGULATORY PROVISIONS

16. Details of the regulatory provisions relevant to this Notice are set out in Annex A.

FACTS AND MATTERS

Background

LIBOR and interest rate derivatives contracts

17. LIBOR is the most frequently used benchmark for interest rates globally, referenced in transactions with a notional outstanding value of at least USD 500 trillion. During the Relevant Period, LIBOR was published for 10 currencies and 15 maturities.
18. Interest rate derivatives contracts typically contain payment terms that refer to benchmark rates. LIBOR is by far the most prevalent benchmark rate used in over-the-counter interest rate derivatives contracts and exchange traded interest rate contracts.
19. During the Relevant Period, LIBOR was published on behalf of the BBA. LIBOR, in each relevant currency, was, and continues to be, set by reference to the assessment of the interbank market made by a number of Panel Banks. Each Panel Bank contributes rate submissions each business day.
20. These submissions are not averages of the relevant Panel Banks’ transacted rates on a given day. Panel Banks are required to exercise their subjective judgement in evaluating the rates at which money may be available in the interbank market when determining their submissions.
21. During the Relevant Period, the LIBOR definition published by the BBA and available to participants in the UK and international financial markets was as follows:

“The rate at which an individual contributor panel bank could borrow funds, were it to do so by asking for and then accepting interbank offers in reasonable market size just prior to 11:00 London time”.
22. The definition of LIBOR required submissions related to funding from the Panel Banks. It did not allow for consideration of factors such as Trading Positions.
23. Until February 2011 the JPY LIBOR panel consisted of 16 banks, including RBS, and the rate calculation for each maturity excluded the highest four and lowest four submissions. An average of the remaining eight submissions, known as the interquartile range, was taken to produce the final benchmark rate.
24. During the Relevant Period, RBS delegated responsibility for determining and making LIBOR submissions to Submitters on its money markets desk

(which responsibility was sometimes further delegated to Substitute Submitters).

RBS's Final Notice

25. RBS breached Principle 5 through misconduct relating to its submission of rates which formed part of the LIBOR setting processes.
26. Principle 5 states that a firm must observe proper standards of market conduct.
27. The RBS Final Notice sets out that RBS breached Principle 5 in, inter alia, the following ways:
 - (1) manipulation of RBS's own submissions that formed part of the calculation of the published JPY LIBOR rates; and
 - (2) collusion with Panel Banks and Broker Firms.

Mr Danziger's role at RBS

28. Mr Danziger was employed by RBS between July 2002 and October 2011, as an interest rate derivatives trader. He traded derivative products referenced to JPY LIBOR.
29. Mr Danziger acted as the Substitute Submitter when the Primary Submitter was not in the office. The Authority has evidence that Mr Danziger acted as the Substitute Submitter for JPY LIBOR on the following occasions: 15 February 2007, between 20 August 2007 and 31 August 2007, 22 October 2007, 2 April 2008 and 16 February 2010.
30. During the Relevant Period Mr Danziger was approved to perform controlled functions on behalf of RBS. From 5 August 2005 until 31 October 2007 he was approved to perform the CF26 (Customer Trading) controlled function, and thereafter he was approved to perform the CF30 (Customer) controlled function until 21 October 2011.
31. During the Relevant Period, Mr Danziger understood that the BBA definition of LIBOR was based on a Panel Bank's assessment of actual rates in the interbank lending market (although it appears that he mistakenly understood it to be based on the rate at which a Panel Bank could lend money, rather than borrow it, in the interbank market). He knew that Trading Positions were not a relevant factor under the definition. He deliberately closed his mind to the risk that for a Submitter to take them into account when making JPY submissions (or for a Derivatives Trader to request a Submitter to do so) was contrary to proper standards of market conduct.

Requests made by Mr Danziger to Primary Submitters

32. During the Relevant Period, Mr Danziger routinely made, and on behalf of Derivatives Trader C communicated, requests to Primary Submitter B (and on one occasion Mr Danziger made a request to another Primary Submitter) to adjust RBS's JPY LIBOR submissions to benefit both Mr Danziger's and Derivatives Trader C's Trading Positions. The Authority has evidence that Mr Danziger sent 12 written communications containing such

requests. In addition, Mr Danziger made oral requests whilst he and other Derivatives Traders sat in close proximity to Primary Submitters.

33. Mr Danziger's requests were for high, low or specific JPY LIBOR submissions with the aim of influencing the final benchmark JPY LIBOR rate published by the BBA.
34. Mr Danziger became aware, towards the end of the Relevant Period, that conduct similar to his own, in relation to another LIBOR currency, was the subject of a regulatory investigation, but deliberately closed his mind to the risk that this might suggest that his own conduct in relation to JPY LIBOR could be of concern to regulators. At 07:35:00 on 24 September 2010, Derivatives Trader C made a request to Mr Danziger to *"push 6 month JPY LIBOR up 2 bps to 44"*. Mr Danziger responded *"will mention it, no emails anymore, after tom"*. At 07:20:57 on 22 November 2010, Derivatives Trader C told Mr Danziger in a Bloomberg exchange *"need to drop 3m LIBOR and hike 6m LIBOR ..."* Mr Danziger responded *"at the moment the FED are all over us about libors"*. Derivatives Trader C then asked, *"that's for the USD? ... [don't] think anyone cares [about] the JPY LIBOR"*. Mr Danziger then responded, *"not yet, I will walk it over to them"*.

Motivation for the requests

35. Mr Danziger's requests were motivated by profit. The final benchmark JPY LIBOR rate published by the BBA would impact the profitability of RBS's JPY Trading Positions, including those for which Mr Danziger and Derivatives Trader C were responsible.
36. Shortly before the start of the Relevant Period the following Bloomberg exchange took place between Mr Danziger and Derivatives Trader C at 13:24:24 on 9 January 2007, after LIBOR had been submitted for that day:

Derivatives Trader C:	<i>"wow...libor bump up higher than expected today"</i>
Danziger:	<i>"i know! [Primary Submitter B] said it would be around 5025 and he put in 50, it is frustrating"</i>
Derivatives Trader C:	<i>"lets see which bank put it up"</i>
Danziger:	<i>"im not sure why other people can manipulate libor and we cant"</i>
Danziger:	<i>"we need to get a better handle on JPY cash, i am going to start paying more attention to it and speaking to cash brokers"</i>

It is clear from this exchange that Mr Danziger understood that other banks were making submissions that he considered were manipulating LIBOR.

37. At 11:56:25 on 2 May 2007, Derivatives Trader C sent the following Bloomberg communication to Mr Danziger: *"hey could you drop an email"*

to [Primary Submitter B] to set low 1m libor and low 3m libor for tomorrow?...our big fixing tomorrow ...".

38. Paragraph 41 below sets out RBS's one month and three month JPY LIBOR submissions on 3 May 2007 (the next trading day) that Primary Submitter B made following this exchange.
39. Mr Danziger was an experienced trader and many of his exchanges with Derivatives Trader C in the Relevant Period made explicit reference to the impact of JPY LIBOR on their Trading Positions.

Primary Submitters took account of Mr Danziger's JPY LIBOR requests

40. Primary Submitter B routinely took Mr Danziger's JPY LIBOR requests into account when making submissions, as on one occasion did another Primary Submitter. This is evidenced by the positive responses given by Primary Submitter B to Mr Danziger's requests and the submissions subsequently made.
41. In relation to the 2 May 2007 Bloomberg communication referred to at paragraph 37 above, in which Derivatives Trader C asked Mr Danziger to request Primary Submitter B to make low one month and three month JPY LIBOR submissions the following day, on 3 May 2007 RBS made the following submissions for one month and three month JPY LIBOR:
 - (1) For one month JPY LIBOR, RBS's submission was 0.63, a drop of one basis point from 0.64 the previous day. This resulted in RBS moving down to equal tenth in the ranking of Panel Banks, from equal fourth the previous day.
 - (2) For three month JPY LIBOR, RBS's submission was 0.66, a drop of one basis point from 0.67 the previous day. This resulted in RBS moving down to equal fourteenth in the ranking of Panel Banks, from equal sixth.
42. At 06:50:59 on 14 September 2009, Mr Danziger sent the following Bloomberg communication to Primary Submitter B: "*high 3s and 6s please*". Although RBS's three month JPY LIBOR submission on this day remained unchanged at 0.38, RBS moved up in the ranking of Panel Banks from equal third to equal second. RBS's six month JPY LIBOR submission remained unchanged at 0.59. This submission was second compared to equal second the previous day.
43. At 07:44:16 on 15 September 2009, a further Bloomberg communication took place between Mr Danziger and Primary Submitter B:

Danziger: "*can we lower our fixings today please [Primary Submitter B]*"

Primary Submitter B: "*make your mind up, haha, yes no probs*"

Danziger: "*im like a whores drawers*"
44. Although on 15 September 2009, RBS's submission for one month JPY LIBOR was not in line with Mr Danziger's request, (the submission was 0.18, remaining unchanged from the previous day, resulting in RBS

remaining equal fifth in the ranking of Panel Banks) RBS's three and six month JPY LIBOR submissions were in line:

- (1) For three month JPY LIBOR, RBS's submission was 0.36, a drop of two basis points from 0.38 the previous day. This resulted in RBS moving to equal fourth in the ranking of Panel Banks, from equal second the previous day.
- (2) For six month JPY LIBOR, RBS's submission was 0.56, a drop of three basis points from 0.59 the previous day. This resulted in RBS moving to equal fifth in the ranking of Panel Banks, from second the previous day.

45. During the course of the Authority's investigation, Primary Submitter B admitted that on occasion he had taken into account requests made by Mr Danziger "as a factor" when making JPY LIBOR submissions.

When making JPY LIBOR submissions, Mr Danziger took into account Trading Positions for which he and other Derivatives Traders were responsible

46. Mr Danziger acted as the Substitute Submitter for JPY LIBOR on 15 February 2007, between 20 August 2007 and 31 August 2007, on 22 October 2007, on 2 April 2008, and on 16 February 2010. During these periods Mr Danziger took into account Trading Positions for which he and other Derivatives Traders were responsible, when making JPY LIBOR submissions. In doing so Mr Danziger was motivated by an intention to benefit those Trading Positions, and knew that other Derivatives Traders were motivated by profit, and seeking to benefit their own Trading Positions, in making requests to him.
47. At 14:45:21 on 17 August 2007 (a Friday), the following Bloomberg communication took place between Derivatives Trader C and Mr Danziger after LIBOR had been submitted for that day:

Derivatives Trader C: *"i dont think 3m libor drop that much, 3m jpy at most down 1bps"*

Danziger: *"oh no, not if i have anything to do with it, and i do have something to do with it! lol."*

Although this was not itself a request by Derivatives Trader C, it shows that Mr Danziger considered that he could and would take the opportunity to attempt to influence LIBOR when acting as Substitute Submitter.

48. Mr Danziger referred openly to the fact that he was taking his own preferences into account when making JPY LIBOR submissions.
49. For example, on 22 August 2007, the following Bloomberg communication took place between Manager A and Mr Danziger:

Manager A: *"Hi Mate, where are u calling the 6m and 3s Libor today?"*

Danziger: *"i put in 1.05 and 1.15"*

Manager A: *"ok cool...is that close to consensus?"*

Danziger: *"i think my 3s are too high, 6s will prob be 1.13 too, but i wanted high fixes today"*

Manager A: *"ok cool, its all a random variable for us at this stage it is just we have some small fixings"*

Danziger: *"well let me know if you have any preferencves, each day"*

Manager A: *"thx will do"*

50. On 22 August 2007, RBS's submission was 1.05 for three month JPY LIBOR, a rise of one basis point from 1.04 the previous day. This resulted in RBS being placed first in the ranking of Panel Banks, from equal first the previous day. RBS's submission was 1.15 for six month JPY LIBOR, a rise of six basis points from 1.09 the previous day. This resulted in RBS moving to equal third in the ranking of Panel Banks, from equal tenth the previous day. This was despite Mr Danziger's assertion that he thought both rates were too high.

51. At 12:54:25 on 22 October 2007, after LIBOR had been submitted for that day, the following Bloomberg exchange occurred between Mr Danziger and Derivatives Trader C:

Danziger: *"i was the highest on the libors!"*

Derivatives Trader C: *"haha.. well we need low 3m libor tomorrow.. you could be the lowest tom!"*

Danziger: *"think we can arrange that"*

52. Consistent with this exchange, on 22 October 2007, RBS's submission was 0.98 for three month JPY LIBOR, a rise of two basis points from 0.96 the previous day. This resulted in RBS being placed first in the ranking of Panel Banks, from equal sixth the previous day.

53. The following day, on 23 October 2007, RBS's submission was 0.94 for three month JPY LIBOR, a drop of four basis points from 0.98 the previous day. This resulted in RBS moving down to equal sixth in the ranking of Panel Banks, from first the previous day.

54. At 13:23:28 on 2 April 2008, the following Bloomberg exchange occurred between Mr Danziger and Derivatives Trader C:

Derivatives Trader C: *"nice libor, our 6m fixing move the entire fixing, hahahah"*

Danziger: *"the bba called to ask me about that today"*

55. On this day, RBS's six month JPY LIBOR submission was 0.95, a drop of eight basis points from 1.03 the previous day. This resulted in RBS moving down to equal twelfth in the ranking of Panel Banks, from first the previous day.

Mr Danziger obtained a Broker's assistance with respect to LIBOR manipulation

56. The Authority has evidence that on two occasions, Mr Danziger obtained a Broker's assistance to attempt to manipulate other Panel Banks' JPY LIBOR submissions in order to benefit the Trading Positions for which he and other Derivatives Traders were responsible.
57. On 26 June 2009, Mr Danziger called Broker A (who worked at Broker Firm 1) and asked, "Has [External Trader A] been asking you to put LIBOR's up today?" Broker A responded, "He wants ... ones and threes a little bit lower and sixes probably about the same where they are now. He wants them to stay the same." Mr Danziger replied, "I want them lower..." Broker A then stated, "Alright, well, alright, alright, well [unclear] work on it."
58. Later on that day, Mr Danziger spoke with Broker A again by telephone:
- Broker A: "Alright okay, alright listen, we've had a couple words with them. You want them lower, right?"
- Danziger: "Yeah."
- Broker A: "Alright okay, alright, no we've okay just confirming it. We've so far we've spoke to [Panel Bank 3] We've spoke to a couple of people so we'll see where they come in alright. We've spoke, basically... basically we spoke to [Panel Bank 3], [Panel Bank 4], [Panel Bank 5], who else did I speak to? [Panel Bank 6]. There's a couple of other people that the boys have spoke to but as a team we've basically said we want a bit lower so we'll see where they come in alright?"
- Danziger: "Cheers."
- Broker A: "No worries mate."
59. On 29 June 2009 (the next working day), Mr Danziger made a further request to Broker A for "low libors again pls".

Wash Trades

60. Between September 2008 and August 2009, Mr Danziger entered into 28 Wash Trades. The purpose of these Wash Trades was to make or facilitate brokerage payments to two firms of Brokers in recognition of his receipt of personal hospitality. This was not a legitimate commercial purpose.
61. Mr Danziger admitted that he socialised with Brokers, although he denied a connection between Wash Trades and the hospitality received from Brokers. The Authority considers the evidence shows that this was the motivation for the Wash Trades.
62. For example, on 19 September 2008, Mr Danziger received a telephone call from Broker A who asked him to enter into a Wash Trade in return for him sending round lunch for everybody on Mr Danziger's desk. Mr Danziger agreed. Later that day, he agreed to increase the value of the Wash Trade and volunteered to pay brokerage on one side of the trade.

63. By way of further example, on 26 June 2009, Broker A telephoned a colleague of Mr Danziger at RBS asking whether Mr Danziger was in the office, and saying that Mr Danziger "*owes me a little switchy today...he owes me a little rumble today*". He stated that he was out the previous evening with Mr Danziger, who got very drunk. On the same day, Broker A spoke to another individual and said that he had run up a £2,000 drinks bill. He said that he had asked Mr Danziger to help him out as he had a "*£2,000 bill last night*" and his monthly expenses were "*a grand*", and that Mr Danziger had told him to "*put a switch through*". Mr Danziger executed a Wash Trade later that day.

FAILINGS

Knowing concern in RBS's breach of Principle 5

64. Section 66(2)(b) of the Act provides that a person is guilty of misconduct if, while an approved person, he has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person by or under the Act.
65. For the purposes of this Notice, RBS is the "relevant authorised person" under section 66(2)(b) of the Act and its breach of Principle 5 is the "contravention of a requirement imposed on that authorised person" by or under the Act.
66. Mr Danziger, as an approved person, was knowingly concerned in RBS's breach of Principle 5 because during the Relevant Period he:
- (1) knew that the definition of LIBOR required Panel Banks to make submissions based on the rate at which borrowing and lending in the interbank market could take place and that Trading Positions were not a relevant factor under the definition;
 - (2) made JPY LIBOR requests to Primary Submitters, in an attempt to influence RBS's LIBOR submissions;
 - (3) he made JPY LIBOR submissions, when acting as a Substitute Submitter, which took into account requests of other RBS Derivatives Traders;
 - (4) took into account Trading Positions for which he and other Derivatives Traders were responsible when making JPY LIBOR submissions as Substitute Submitter;
 - (5) obtained a Broker's assistance in an attempt to influence other Panel Banks' JPY LIBOR submissions;
 - (6) was motivated by profit when making JPY LIBOR requests to Primary Submitters and when taking into account the JPY Trading Positions for which he and other Derivatives Traders were responsible, and knew that other Derivatives Traders were motivated by profit when making requests to him as Substitute Submitter and sought to benefit their own Trading Positions; and
 - (7) deliberately closed his mind to the risk that making JPY LIBOR requests to Primary Submitters and taking Derivatives Trader requests into account in determining where RBS's JPY LIBOR

submissions should be set, to benefit the financial interests of RBS, was contrary to proper standards of market conduct.

Wash Trades

67. Mr Danziger also engaged in Wash Trades, with the purpose of paying brokerage to Brokers for no legitimate commercial reason; in doing this he deliberately closed his mind to the risk that it was improper.

Lack of fitness and propriety

68. The relevant sections of FIT are set out in Annex A. FIT 1.3.1G states that the Authority will have regard to, among other things, a person's integrity when assessing the fitness and propriety of a person to perform a particular controlled function.
69. Mr Danziger is not a fit and proper person to perform any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm because he lacks integrity, as demonstrated by his conduct set out in this Notice.
70. Mr Danziger acted recklessly, and therefore with a lack of integrity, in deliberately closing his mind to the risk that his behaviour in relation to the submission of JPY LIBOR rates was contrary to proper standards of market conduct, and to the risk that it was improper to enter into Wash Trades.

SANCTION

Financial Penalty

71. Mr Danziger's misconduct took place from 14 February 2007 to 22 November 2010.
72. The Authority's policy on the imposition of financial penalties and public censures is set out in DEPP. The Authority has applied the provisions of DEPP which were in force from 28 August 2007 to 6 March 2010. The detailed provisions of DEPP are set out in Annex A.
73. The Authority has also had regard to the provisions of ENF relevant to the pre-28 August 2007 part of the Relevant Period, and the provisions of DEPP in force during the post-5 March 2010 part of the Relevant Period.
74. DEPP 6.5.2 lists factors which may be relevant when the Authority determines the amount of financial penalty for a person under the Act. Relevant factors are analysed below. DEPP 6.5.1 provides that the list of criteria in DEPP 6.5.2 is not exhaustive and all the relevant circumstances of the case will be taken into consideration.
75. The Authority considers the following DEPP factors to be particularly important in assessing the sanction:

Deterrence – DEPP 6.5.2(1)

76. DEPP 6.5.2(1) states that when determining the appropriate level of penalty, the Authority will have regard to the principal purpose for which it imposes sanctions, namely to promote high standards of regulatory and/or

market conduct by deterring persons who have committed breaches from committing further breaches and helping to deter other persons from committing similar breaches, as well as demonstrating generally the benefits of compliant business. The Authority considers that the need for deterrence means that a significant fine on Mr Danziger is appropriate.

Nature, seriousness and impact of the breach – DEPP 6.5.2(2)

77. Mr Danziger's breaches were extremely serious. Mr Danziger improperly and routinely made JPY LIBOR requests to Primary Submitters. He also took his own Trading Positions, and those of other Derivatives Traders, into account when making RBS's JPY LIBOR submissions as Substitute Submitter.
78. LIBOR is of central importance to the operation of UK and worldwide financial markets. Doubts about the integrity of LIBOR threaten confidence in these markets. Submitters are the guardians of LIBOR and as such Mr Danziger's failings were very serious.
79. Mr Danziger's misconduct could have caused serious harm to other market participants.
80. Mr Danziger was in a position of significant responsibility in his role at RBS.
81. Mr Danziger was a highly experienced market professional.

The extent to which the breach was deliberate or reckless – DEPP 6.5.2(3)

82. Mr Danziger's conduct was reckless. He acted as he did despite knowing that taking Trading Positions into account when making LIBOR submissions was not permitted under the BBA's definition of LIBOR, and deliberately closed his mind to the risk that taking them into account was contrary to proper standards of market conduct.

Disciplinary record and compliance history - DEPP 6.5.2G (9)

83. The Authority has not taken previous regulatory action against Mr Danziger.

Conclusion in relation to financial penalty

84. Having taken into account all the relevant circumstances, the Authority has decided to impose a financial penalty of £250,000 on Mr Danziger in respect of his knowing concern in the breach by RBS of Principle 5.

Prohibition Order

85. The Authority considers that Mr Danziger's actions as described in this Notice demonstrate that he lacks integrity. As such, the Authority believes that it is appropriate to prohibit Mr Danziger from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

REPRESENTATIONS

86. Annex B contains a brief summary of the key representations made by Mr Danziger, and how they have been dealt with. In making the decision which gave rise to the obligation to give this Notice, the Authority has taken into account all of the representations made by Mr Danziger, whether or not set out in Annex B.

PROCEDURAL MATTERS

87. This Notice is given in accordance with section 390 of the Act.
88. The following paragraphs are important.

Decision maker

89. The decision which gave rise to the obligation to give this Notice was made by the Regulatory Decisions Committee.

Manner of and time for Payment

90. The financial penalty of £250,000 must be paid in full by Mr Danziger to the Authority by no later than 30 June 2018.

If the financial penalty is not paid

91. If all or any of the financial penalty is outstanding after its due date for payment, the Authority may recover the outstanding amount as a debt owed by Mr Danziger and due to the Authority.

Confidentiality and publicity

92. 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 a 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.
93. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Contacts

94. For more information concerning this matter generally, contact Rebecca Cole (direct line: 020 7066 7202) or David Hayton (direct line: 020 7066 1404) at the Authority.

Mark Francis
Head of Department, Wholesale 1,
Enforcement and Market Oversight Division
Financial Conduct Authority

ANNEX A

RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. The Authority's strategic objective, set out in section 1B(2) of the Act, is ensuring that the relevant markets function well. The relevant markets include the financial markets and the markets for regulated financial services (section 1F of the Act). The Authority's operational objectives are set out in section 1B(3) of the Act, and include the integrity objective.

Knowingly concerned

2. The Authority has the power, pursuant to section 66(1) of the Act, to impose a financial penalty of such amount as it considers appropriate where it appears to the Authority that a person is guilty of misconduct and it is satisfied that it is appropriate in all the circumstances to take action against him.
3. A person is guilty, pursuant to section 66A(3)(A) of the Act, of misconduct if, while an approved person, he has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person by or under the Act.
4. PRIN was issued pursuant to section 137A of the Act and contains general statements regarding the fundamental obligations of firms under the regulatory system.

PRIN

5. Principle 5 states: "*A firm must observe proper standards of market conduct*" (PRIN 2.1.1R).

Lack of integrity

6. The Authority has the power, pursuant to section 56 of the Act, to make a prohibition order if it appears to the Authority that an 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 firm. Pursuant to section 56(2) of the Act, such an order may relate to a specified function, any function falling within a specified description or any function.

FIT

7. FIT sets out the criteria for assessing a person's fitness and propriety.
8. FIT 1.1.2G states:

"The purpose of FIT is to set out and describe the criteria that... the [Authority] will consider when assessing the fitness and propriety of a candidate for a controlled function... (see generally SUP 10A and SUP 10B on approved persons), and may consider when assessing the continuing fitness and propriety of approved persons."
9. FIT 1.3G states that the Authority will have regard to a number of factors, including a person's integrity, when assessing the fitness and propriety of a person to perform a particular controlled function.

10. FIT 1.3.3G states:

"The criteria listed in FIT 2.1 to FIT 2.3 are guidance and will be applied in general terms when the Authority is determining a person's fitness and propriety. It would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination..."

11. FIT 2.1.1 states:

"In determining a person's ... integrity ..., the Authority will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3 G which may have arisen either in the United Kingdom or elsewhere..."

12. FIT 2.1.3G provides a non-exhaustive list of matters to which the Authority will have regard in determining a person's integrity.

Financial penalty

13. The Authority's policy on the imposition of financial penalties and public censures is set out in DEPP. The provisions of DEPP set out below are those which were in force from 28 August 2007 to 5 March 2010. The Authority has also had regard to the provisions of DEPP in force during the part of the Relevant Period after 5 March 2010.

14. DEPP 6.2.1(1) states that the Authority will consider the full circumstances of each case when determining whether or not to take action for a financial penalty or public censure. The list is not exhaustive: not all of these factors may be applicable in a particular case, and there may be other factors, not listed, that are relevant.

(1) The nature, seriousness and impact of the suspected breach, including:

- (a) whether the breach was deliberate or reckless;
- (b) the duration and frequency of the breach;
- (c) the amount of any benefit gained or loss avoided as a result of the breach; and

...

- (e) the impact or potential impact of the breach on the orderliness of markets including whether confidence in those markets has been damaged or put at risk;

(2) The conduct of the person after the breach, including the following:

- (a) how quickly, effectively and completely the person brought the breach to the attention of the Authority or another relevant regulatory authority;
- (b) the degree of co-operation the person showed during the investigation of the breach;
- (c) any remedial steps the person has taken in respect of the breach; and

- (d) the likelihood that the same type of breach (whether on the part of the person under investigation or others) will recur if no action is taken;
- (3) The previous disciplinary record and compliance history of the person including:
- (a) whether the Authority (or any previous regulator) has taken any previous disciplinary action resulting in adverse findings against the person;
 - (b) whether the person has previously undertaken not to do a particular act or engage in particular behaviour; and
 - ...
 - (d) the general compliance history of the person, including whether the Authority (or any previous regulator) has previously issued the person with a private warning.
15. DEPP 6.5.1(1) states that Authority will consider all the relevant circumstances of a case when it determines the level of financial penalty (if any) that is appropriate and in proportion to the breach concerned. The list of factors in DEPP 6.5.2 is not exhaustive: not all of these factors may be relevant in a particular case, and there may be other factors that are relevant.
16. DEPP 6.5.2(1) states that when determining the appropriate level of penalty, the Authority will have regard to the principal purpose for which it imposes sanctions, namely to promote high standards of regulatory and/or market conduct by deterring persons who have committed breaches from committing further breaches and helping to deter other persons from committing similar breaches, as well as demonstrating generally the benefits of compliant business.
17. DEPP 6.5.2(2) states that the Authority will consider the seriousness of the breach in relation to the nature of the rule, requirement or provision breached. The considerations that may be relevant include:
- (a) the duration and frequency of the breach; and
 - (d) the loss or risk of loss caused to consumers, investors or other market users;
18. DEPP 6.5.2(3) states that the Authority may take account of the extent to which the breach was deliberate or reckless.
19. For the period between 14 August 2006 and 27 August 2007, the Authority's approach to deciding whether to impose a financial penalty, and the factors to determine the level of that penalty, are listed in chapter 13 of ENF.
20. ENF 13.3.3 G stated: "*The factors which may be relevant when the [Authority] determines the amount of a financial penalty for a firm or approved person include the following.*" Some of the relevant factors are set out below.

21. ENF 13.3.3 G (1) related to "the seriousness of the misconduct or contravention" and stated: "In relation to the statutory requirement to have regard to the seriousness of the misconduct or contravention, the [Authority] recognises the need for a financial penalty to be proportionate to the nature and seriousness of the misconduct or contravention in question. The following may be relevant:

(a) in the case of an approved person, the [Authority] must have regard to the seriousness of the misconduct in relation to the nature of the Statement of Principle or requirement concerned;

(b) the duration and frequency of the misconduct or contravention...;

...

(d) the impact of the misconduct or contravention on the orderliness of financial markets, including whether public confidence in those markets has been damaged;

(e) the loss or risk of loss caused to consumers or other market users."

22. ENF 13.3.3 G (2) related to "the extent to which the contravention or misconduct was deliberate or reckless" and stated:

"In determining whether a contravention or misconduct was deliberate, the [Authority] may have regard to whether the... approved person's behaviour was intentional, in that they intended or foresaw the consequences of their actions.

If the [Authority] decides that behaviour was deliberate or reckless, it may be more likely to impose a higher penalty on... [an] approved person than would otherwise be the case."

23. ENF 13.3.3 G (3) related to "Whether the person on whom the penalty is to be imposed is an individual, and the size, financial resources and other circumstances of the firm or individual" and stated: "This will include having regard to whether the person is an individual, and to the size, financial resources and other circumstances of the... approved person. The [Authority] may take into account whether there is verifiable evidence of serious financial hardship or financial difficulties if the... approved person were to pay the level of penalty associated with the particular contravention or misconduct. The [Authority] regards these factors as matters to be taken into account in determining the level of a penalty, but not to the extent that there is a direct correlation between those factors and the level of penalty. The size and financial resources of [an] approved person may be a relevant consideration, because the purpose of a penalty is not to render [an] approved person insolvent or to threaten [his] solvency. Where this would be a material consideration, the [Authority] will consider, having regard to all other factors, whether a lower penalty would be appropriate; this is most likely to be relevant to... approved persons with lower financial resources; but if [an] individual reduces [his] solvency with the purpose of reducing [his] ability to pay a financial penalty, for example by transferring assets to third parties, the [Authority] will take account of those assets when determining the amount of a penalty."

24. ENF 13.3.3 G (5) related to “conduct following the contravention” and stated:

“The [Authority] may take into account the conduct of the... approved person in bringing (or failing to bring) quickly, effectively and completely the contravention or misconduct to the [Authority]’s attention and:

(a) the degree of cooperation the... approved person showed during the investigation of the contravention or misconduct (where [an] approved person has fully cooperated with the [Authority]’s investigation, this will be a factor tending to reduce the level of financial penalty)”

Prohibition order

25. The Authority’s approach to deciding whether to impose a prohibition order, and the scope of any such prohibition order, is set out in chapter 9 of EG.

26. EG 9.1.1 sets out how the Authority’s power to make a prohibition order under section 56 of the Act helps it work towards achieving its statutory objectives. The Authority may exercise this power where it considers that, to achieve any of those 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.

27. EG 9.2.1 states:

“In deciding whether to make a prohibition order and/or, in the case of an approved person, to withdraw its approval, the [Authority] will consider all the relevant circumstances including whether other enforcement action should be taken or has been taken already against that individual by the [Authority]. As is noted below, in some cases the [Authority] may take other enforcement action against the individual in addition to seeking a prohibition order and/or withdrawing its approval. The [Authority] will also consider whether enforcement action has been taken against the individual by other enforcement agencies or designated professional bodies.”

28. EG 9.2.3 states:

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

29. EG 9.3.1 to 9.3.8 set out guidance on the Authority’s approach to making prohibition orders against approved persons.

30. EG 9.3.1 states that, in deciding whether to make a prohibition order, the Authority will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.

31. Specifically in relation to approved persons, EG 9.3.2 states that in deciding whether to make a prohibition order, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, the following:

"[...]

(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).*

(3) *Whether, and to what extent, the approved person has:*

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

[...]

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

(6) *The length of time since the occurrence of any matters indicating unfitness.*

(7) *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.*

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

[...]”

32. EG 9.3.3 states:

"The [Authority] may have regard to the cumulative effect of a number of factors which, when considered in isolation, may not be sufficient to show that the individual is not fit and proper to continue to perform a controlled function or other function in relation to regulated activities. It may also take account of the particular controlled function which an approved person is performing for a firm, the nature and activities of the firm concerned and the markets within which it operates."

33. EG 9.3.4 states:

"Due to the diverse nature of the activities and functions which the [Authority] regulates, it is not possible to produce a definitive list of matters which the [Authority] 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."

34. EG 9.3.6 states:

"Certain matters that do not fit squarely, or at all, within the matters referred to above may also fall to be considered. In these circumstances

the [Authority] will consider whether the conduct or matter in question is relevant to the individual's fitness and propriety."

ANNEX B

REPRESENTATIONS

1. Mr Danziger's representations (in italics), and the Authority's conclusions in respect of them, are set out below.

Delay

2. *These proceedings have been much more protracted than is usually the case. Mr Danziger was interviewed by the Authority in 2012/13, when some of the conduct alleged against him was already five years old. The Warning Notice was issued in these proceedings in June 2014 and in July 2014 this matter was stayed, at the request of the Serious Fraud Office. Some of the chats relied on are now 10 years old. In responding, Mr Danziger is hindered unfairly by the fact that his trading book cannot be reconstructed and the data which influenced his requests and LIBOR submissions is not available. The absence of this material is a significant impediment in explaining Mr Danziger's actions and his recollection of the events will have diminished over time. Further, the Authority did not ask Mr Danziger about most of the chats in interview; had it done so at his original interview five years ago, his recollection of the context would almost certainly have been better than it is today.*
3. The Authority accepts that these proceedings have taken longer to conclude than is usually the case. However, the evidence in this case is largely documentary, so it is less reliant on the recollection of events than might otherwise have been the case. As Mr Danziger has admitted taking Trading Positions into account in requesting and making LIBOR submissions, any other matters that may have influenced his actions are not relevant. Mr Danziger has not contended that he had any difficulty in recalling whether or not he thought it permissible to take Trading Positions into account; he has stated that he did, and explained why.
4. The Authority notes that Mr Danziger consistently supported the stay of these proceedings until it was lifted in June 2016.

Disclosure

5. *The Authority has sought to restrict the disclosure to which Mr Danziger should ordinarily be entitled to under section 394 of the Act. This includes material relating to other cases (criminal, regulatory or civil) involving similar allegations against other individuals, which is relevant to this case and may undermine the basis for the action in this case. The underlying issues overlap significantly so it is no answer to say the facts in each case are different.*
6. The Authority is satisfied that disclosure has been made in accordance with section 394 of the Act. Conclusions in other cases in relation to different (even if, in some respects, similar) facts, and in particular in relation to the mental states of other people with whom, for the most part, Mr Danziger did not work, are not relevant to the issues in this case.

7. The Authority reviewed the disclosure position in the light of Mr Danziger's written representations in this matter and made limited extra disclosure at that stage (some of it going beyond the requirements of section 394).

Limitation

8. *The effect of section 66(4) of the Act is that the Authority may not take action under section 66 (including for a financial penalty) in respect of misconduct more than three years after the day on which it knew of the misconduct. Under section 66(5), the Authority is to be treated as knowing of the misconduct if it has information from which the misconduct can reasonably be inferred. These proceedings against Mr Danziger were commenced only a few days before 21 June 2014, which the Authority said was three years from the earliest date on which it could be said to have had information from which the relevant alleged misconduct could reasonably be inferred.*
9. *Mr Danziger is not able to advance a positive case on limitation because the Authority has refused to disclose any of the material that underpins its calculation. However, the anomalies between the Authority's explanations and open source information do not allow him to accept that the proceedings against him were in time. There is reason to believe they are not.*
10. *Mr Danziger is aware that: the Authority and the United States Commodity Futures Trading Commission (CFTC) began a joint investigation into alleged LIBOR manipulation in 2008; the Authority received material in response to information requirements issued under the Act at the request of overseas agencies; RBS conducted its own investigation into alleged LIBOR manipulation and was under an obligation to notify the Authority of significant regulatory breaches; and the Authority holds a large amount of documentation in respect of Mr Danziger, as to which it is not clear whether (or, if so, how) it has been reviewed for the purposes of limitation. In a reported case in the Upper Tribunal the Authority acknowledged errors in identifying relevant material obtained by it on behalf of the CFTC from which it had later become apparent that the financial penalty element of the case was time-barred.*
11. *As a result of the above matters, it seems probable that the Authority did have information from which the alleged misconduct could reasonably be inferred, more than three years before the issue of the Warning Notice against Mr Danziger. But the Authority has refused access to the material from which Mr Danziger would be able to test its assertion that it did not.*
12. The Authority first became aware of possible LIBOR manipulation by RBS traders as a result of an internal investigation by a different bank, and the investigation by the United States Department of Justice (DOJ) into that bank. Mr Danziger was one of the traders that were identified by that bank as attempting to manipulate LIBOR, but that bank had concealed his identity. Only when, on 21 June 2011 (three and a half months later), the Authority obtained documents underlying that bank's submissions to the DOJ was it able to identify Mr Danziger. The Authority is satisfied that that was the first date on which it had information from which Mr Danziger's

misconduct in relation to LIBOR could reasonably be inferred. It does not consider there would be any purpose in Mr Danziger's checking the documents obtained earlier to satisfy himself as to whether the Authority ought reasonably to have identified him from them, given that the bank concerned had been careful to conceal his identity.

There was no breach of Principle 5 by RBS

13. *The practices of making requests to Submitters, and of Submitters taking commercial interests into account, were not contrary to Principle 5, provided the requester or Submitter believed the rate requested or posted was justifiable. There were, in fact, no "proper standards of market conduct" in relation to benchmark submission. If a practice is so widespread that it is replicated across the market it is hard to say that it is a breach of Principle 5, even if it is suggested subsequently that the practice is inappropriate. This is because "standard" is defined as "normal", "typical", "usual" or "accustomed". There was no appropriate regulatory framework setting out what was required.*
14. This representation is inconsistent with decisions of the Court of Appeal: R v H (2015); R v Hayes (2015); and R v Merchant (2017), which have clearly established that a submitter is (and at the relevant time, was) not entitled to take the commercial advantage of the bank into consideration. As the Court of Appeal stated in R v H, "The definition provided by the BBA does, it is true, call for a statement of opinion which involved subjective considerations; but otherwise it is by reference to what is an objective matter: the rate at which an individual contributor panel bank could borrow funds et cetera". In drawing attention to what he says is the meaning of "standard", Mr Danziger overlooks the word "proper"; a practice is not proper just because it is widespread in a market.

If there was a breach of Principle 5 by RBS, Mr Danziger was not knowingly concerned in it

15. *Mr Danziger did not understand during the Relevant Period that making requests to Submitters, and taking into account requests from Derivatives Traders when acting as Substitute Submitter, was improper. He accepts that he took into account the Trading Positions communicated to him by other Derivatives Traders when acting as Substitute Submitter, but he always posted what he understood to be a fair rate, justifiable by independent factors, and believed he was permitted to do so. He did not know, believe or suspect that the making of requests, or the taking of requests into account, was improper, as long as the rate submitted was genuine and could be objectively justified.*
16. *The communications by Mr Danziger which are relied on by the Authority were all conducted openly, and the making of requests was permitted and encouraged by RBS. Mr Danziger was not given any training about LIBOR submissions, which he learned about on the job, and was unaware of any*

BBA guidance. He was placed in a position of inherent conflict by the fact that RBS, while he was a Substitute Submitter, encouraged him to share market information with Submitters. Any information relayed by Mr Danziger to the Submitter was designed to assist the Submitter in identifying the rate at which to make a submission, and not improperly to influence him. It was a matter for the Submitter using his own professional judgement as to the submission he should make. The Authority has accepted that Mr Danziger misunderstood the LIBOR definition, and there was no basis for him to know all the factors which should or should not be taken into account.

17. This Notice sets out the extent to which the Authority accepts that others within RBS (including management) were aware of or involved in the requests made by Mr Danziger to Primary Submitters or by others to him when acting as Substitute Submitter. The Authority accepts that Mr Danziger made and received requests openly, that he did not receive any formal training in relation to the LIBOR submissions process, and that he wrongly understood that the LIBOR rate was based on the rate at which a Panel Bank could lend money, rather than borrow it, in the interbank market. However, Mr Danziger knew that LIBOR was based on a Panel Bank's assessment of actual rates in the interbank lending market; he was aware that Trading Positions were not a relevant factor under the definition. It follows that (whatever the views of others within the Panel Bank) Trading Positions could not be relevant even if they led to a rate being requested or ultimately submitted which, as it happened, was capable of being objectively justified by reference to other, legitimate factors.
18. The Authority accepts that there was an inherent conflict of interests in the position of a Submitter who was also a Derivatives Trader, but it was the job of the Submitter to disregard Trading Positions when making Submissions, and Mr Danziger failed to do so. Mr Danziger went further than sharing "market information" with Submitters when he made requests for JPY LIBOR submissions for the benefit of Trading Positions. His representation that he was merely providing information with which the Submitter might identify the appropriate rate is inconsistent with his admission that he made "requests" to Primary Submitters, as well as with the language of the requests themselves (such as "please"; "can we get...?"). The Authority considers that Mr Danziger deliberately closed his mind to the risk that for a Submitter to take Trading Positions into account when making LIBOR submissions (or for a Derivatives Trader to request a Submitter to do so) was contrary to proper standards of market conduct.
19. *Mr Danziger had no personal profit motive for manipulating LIBOR as he did not generally trade in products that were referenced to LIBOR. His own Trading Positions were not affected by the rate submitted, and his bonus was not directly linked to his profit and loss.*
20. The Authority notes that Mr Danziger's personal trading was largely (if not exclusively) in FX forwards, which were not linked to LIBOR. The

Authority considers that Mr Danziger was motivated by profit for the Trading Positions held by the overall derivatives trading book for which he and others were together responsible, and for RBS more generally. The Authority notes that the profitability of those Trading Positions, and of RBS generally, was likely to have an impact on his bonus awards.

21. *The Authority's approach of examining Mr Danziger's submission by reference to where other Panel Banks posted their submissions is wholly misconceived and irrelevant. It cannot be assumed that Mr Danziger's submission was wrong merely because he happened to be an outlier or that his submission was correct because he was in the middle of the pack. The appropriateness of the submission is solely determined by his state of mind, and at all times Mr Danziger believed that he was posting a genuine rate.*
22. Mr Danziger's representation mischaracterises the significance of comparing Mr Danziger's LIBOR submissions (and, indeed, those of Primary Submitters who took his requests into account) with those of other Panel Banks. It is not part of the Authority's case that any particular submissions were "wrong" in the sense that they were not submissions that could properly have been made if regard were had only to legitimate factors; rather, the comparison demonstrates whether or not RBS's submission did in fact move up or down in line with the internal request. There is a limit to the reliance that can be placed on an analysis of the figures submitted. The primary evidence against Mr Danziger is the communications between him and other Derivatives Traders and Primary Submitters, which suggest he was taking into account Trading Positions, or asking Primary Submitters to do so, together with his admission that he did so. However, while the analysis of the comparison against other Panel Banks' LIBOR submissions does not provide a definitive answer, it shows that there were a significant number of occasions on which RBS's submission or its position in relation to other Panel Banks (or both) did in fact move up or down in line with the internal request.

Mr Danziger did not ask a Broker to attempt to influence other Panel Banks' submissions

23. *In the whole of his employment period, there is only one occasion on which it could conceivably be alleged that Mr Danziger discussed other Panel Banks' submissions with a Broker. A critical examination of the two dates in question (26 and 29 June 2009) undermines the suggestion that there was any attempt to influence other Panel Banks' submissions, or even that there was a discussion about other Panel Banks' submissions at all. It happened only once (with one follow-up), the discussion was instigated by a Broker asking Mr Danziger whether he cared where LIBOR fixed that day, and the discussion was more generalised about where cash would be and market colour.*
24. The communications in question (set out at paragraphs 56 to 59 of this Notice) are self-evidently concerned with influencing the LIBOR submissions of other Panel Banks and in them (regardless of who had initiated the discussion about LIBOR) Mr Danziger was enlisting the

assistance of the Broker to do so. This happened on two separate occasions, being two consecutive working days.

Wash Trades

25. *There are numerous reasons why traders might properly enter into the type of transactions which the Authority characterises as Wash Trades: to facilitate liquidity in the market; to reduce credit risk; to allow two traders within the same bank to trade with each other in the market; and to provide opportunities in funding arbitrage when different counterparties had different collateral agreements.*
26. *The alleged Wash Trades in this case had a commercial rationale. This was that helping out the Brokers concerned would have benefits for RBS. These included – by redressing the imbalance between RBS’s trading profits and commissions paid – ensuring that RBS remained an attractive counterparty with whom brokers would wish to deal, and thereby ensuring that Mr Danziger would continue to have access to market colour. The level of brokerage paid was not at any time inconsistent with the market generally and no concerns were raised by management as to the rates paid, even though they had full visibility as to Mr Danziger’s trading activity.*
27. *Mr Danziger did socialise with the Brokers with whom he entered into the alleged Wash Trades; for example, he would have drinks or dinner with them or socialise while on foreign trips. But this was unconnected with the trades in question, and Mr Danziger would “pay his way” eg paying for his own flights and accommodation on overseas trips. This was not dissimilar to what he heard of other people in his position doing.*
28. *Trades of this type were common practice within RBS and the financial services sector generally. Such trades were conducted openly, and were fully known about, condoned and positively encouraged by management at RBS as being in the best interests of RBS. They were not prohibited by the RBS compliance manual at the time unless they constituted market abuse.*
29. *Mr Danziger did not argue that any of the matching pairs of trades in question were in fact for any of the reasons (as set out in paragraph 25 above) that he stated would have been legitimate. Accordingly, it is not necessary to reach any conclusion in this case as to the circumstances in which such purposes might be legitimate or otherwise. As for the purpose which he stated was his actual commercial rationale (as set out in paragraph 26 above), the Authority does not consider that the objectives concerned would have been an acceptable reason for entering into trades which mirrored each other completely but which resulted in the payment of brokerage. It notes that there would have been other, transparent, ways of achieving the same objectives (such as increasing brokerage rates for business which had a commercial purpose other than merely the payment of brokerage). However, the Authority concludes that Mr Danziger’s objective in entering into the trades in question was in fact to recognise the hospitality which he admitted receiving from the Brokers. In the Authority’s view, it should have been apparent to Mr Danziger that this*

was an improper reason for the trades but he deliberately closed his mind to the risk that this was the case.

30. The Authority has not made any finding that the practice of entering into Wash Trades was either widespread at RBS, or known to or condoned by management. The Authority notes that a practice need not be specifically listed in a firm's compliance manual as unacceptable for it to be said that it was not permitted by that firm. In its investigation into the conduct of RBS, the Authority reflected in the Final Notice given to RBS dated 6 February 2013 its conclusion that the Wash Trades mentioned in that Notice were not detected by RBS until drawn to its attention by the Authority; Mr Danziger has not provided the Authority with any evidence (beyond bare assertion) that RBS was aware of any of the Wash Trades into which he entered and the Authority has not concluded that RBS was so aware.

Financial penalty

Lack of seriousness

31. *The misconduct alleged against Mr Danziger was not of a serious nature, given:*
- (a) *the small number of written requests which, on the Authority's case, Mr Danziger made, and the limited number of occasions on which, on its case, he acted as Substitute Submitter;*
 - (b) *the lack of any personal profit to Mr Danziger arising from the misconduct alleged;*
 - (c) *that Mr Danziger acted with the participation and awareness of his direct management;*
 - (d) *the lack of training received by Mr Danziger in relation to the LIBOR submissions process (and the Authority admits that he misunderstood the LIBOR definition); and*
 - (e) *the lack of any evidence to show that Mr Danziger's actions had any impact on the market.*
32. In addition to the 12 written requests by Mr Danziger which are relied on by the Authority, as set out in paragraph 32 of this Notice, the Authority has also found that Mr Danziger made oral requests to Primary Submitters. Notwithstanding that the Authority has only identified a relatively small number of occasions when Mr Danziger acted as Substitute Submitter, it considers the evidence demonstrates that he took Trading Positions into account when he did so act (see paragraphs 46 to 55 of this Notice).
33. As set out in paragraph 20 above, the Authority considers that Mr Danziger's misconduct was motivated by profit, notwithstanding that no direct profit accrued to him as a result of it. The Authority has not included in the penalty it has decided to impose on Mr Danziger any element of disgorgement of profits.

34. The Authority considers that neither Mr Danziger's lack of training in the LIBOR submission process nor his misunderstanding of the LIBOR definition provides any mitigation of his actions, as he knew that LIBOR was based on a Panel Bank's assessment of actual rates in the interbank lending market and was aware that Trading Positions were not a relevant factor under the definition. The Authority notes that it was open to Mr Danziger to make appropriate enquiries, if he was unclear as to what factors it was permissible to take into account.
35. In the Authority's view, the awareness or involvement of others within RBS, including (to the extent found by the Authority, as set out in this Notice) his direct management, does not excuse Mr Danziger's misconduct, and nor does it mean that it was not serious. Mr Danziger acted recklessly in deliberately closing his mind to the risk that his actions were contrary to proper standards of market conduct, which is an extremely serious matter.
36. Whatever the actual effect of his misconduct on the JPY LIBOR rate, the Authority is satisfied that Mr Danziger acted as he did in the belief that it might lead to a rate being set that would be more advantageous to Trading Positions than might otherwise have been the case. LIBOR was of central importance to the operation of financial markets worldwide and his misconduct could have caused significant harm to other market participants.

The position of other individuals

37. *In determining whether to impose a financial penalty, the Authority must avoid "scapegoating" Mr Danziger for the ills of a now much-discredited system.*
38. *It would be unfair to impose a financial penalty on him when other relevant individuals had received only private warnings, and others (including some senior to him at RBS) continued to work in the financial services industry.*
39. *The case was less serious than that of another individual from RBS, who (as set out in the Final Notice in relation to that case) would have received a financial penalty of £250,000, but for having demonstrated that that would cause him serious financial hardship. In other cases in which final notices had been issued by the Authority (against individuals convicted of criminal offences in relation to LIBOR), no financial penalty had been imposed.*
40. This Notice is concerned only with the case against Mr Danziger, and the Authority makes no comment on the facts or relative merits of any other cases, which are not relevant to his particular position. Having considered the facts of Mr Danziger's case, the Authority is satisfied that his conduct merits the financial penalty which it has decided to impose.

Remuneration

41. *The Authority should not place undue weight on Mr Danziger's remuneration over the Relevant Period in fixing the level of any financial penalty; this is not indicative of a potential link between misconduct and personal benefit. The Authority has, in any event, calculated his remuneration at far too high a level.*
42. The Authority is satisfied that its calculation of Mr Danziger's relevant remuneration is appropriate; this was based directly on figures provided to it by RBS and, in any event, even on his own figures Mr Danziger was highly remunerated. The Authority does not consider there to be a direct link between remuneration and the appropriate level of financial penalty, having regard to its penalty policy in force prior to 6 March 2010 (which the Authority has applied in determining the appropriate penalty in this case, as set out at paragraphs 13 to 24 of Annex A to this Notice). It has, however, taken account in general terms of Mr Danziger's remuneration when determining the financial penalty in this case, as an indicator (among other factors) of his relative seniority and of the appropriate level to achieve deterrence of both Mr Danziger and individuals in a similar position to him.

Deterrence

43. *A significant financial penalty is not warranted on grounds of deterrence, given:*
 - (a) *that the Authority has already taken robust regulatory action against the banks involved in alleged LIBOR manipulation in circumstances where the misconduct now alleged was known about and encouraged;*
 - (b) *the passage of time since the conduct complained of;*
 - (c) *the strengthened regulatory framework within which banks now operate; and*
 - (d) *the intended future phasing out of LIBOR.*
44. The Authority is satisfied that the need for deterrence is a factor in this case notwithstanding the factors listed in paragraph 43 above. In particular, it is necessary to deter misconduct generally, not merely misconduct of an identical or similar nature to that in this case.

Personal mitigation

45. *Mr Danziger is of otherwise good character, the loss of which through this action would be penalty enough. His financial services career is effectively finished as he has not worked in financial services since leaving RBS. The delay in disposing of this matter (which is not Mr Danziger's fault) has caused him and his family considerable stress as the matter has been hanging over them for at least five years. From an early stage of the Authority's investigation, and throughout it, Mr Danziger has co-operated fully and this should be reflected in the penalty.*

46. In deciding on the appropriate penalty, the Authority has taken these matters into account, to the extent relevant. As noted above, Mr Danziger has supported the stay of these proceedings throughout; in addition, the Authority does not consider Mr Danziger's co-operation has been such as to merit any discount to the level of penalty. Even where relevant, these matters do not negate the seriousness of this matter or mean that a substantial financial penalty is not warranted.

Mr Danziger's financial circumstances

47. *In considering the issue of financial penalty, the Authority should have regard to Mr Danziger's financial circumstances, which are such that any significant financial penalty is likely to result in his bankruptcy.*
48. Mr Danziger has opted not to provide the Authority with verifiable evidence that the imposition of a significant financial penalty would result in serious financial hardship. Accordingly, in accordance with the provisions of DEPP 6.5.2 (5)(a), the Authority has not taken Mr Danziger's financial circumstances into account in deciding on the level of financial penalty that is appropriate in this case.

Prohibition

49. *A prohibition would be appropriate if Mr Danziger were found to have acted with a lack of integrity, but he did not do so.*
50. For the reasons set out in this Notice, the Authority considers that Mr Danziger lacked integrity in committing the misconduct set out above in relation to LIBOR, and in entering into the Wash Trades. Accordingly it considers it appropriate to impose a prohibition in the terms set out in this Notice.