
FINAL NOTICE

To: **Vanquis Bank Limited**

Reference Number: **221156**

Address: **20 Fenchurch Street, London EC3M 3BY**

Date: **27 February 2018**

1. **ACTION**

- 1.1 For the reasons given in this Final Notice, the Authority hereby:
- a. imposes on Vanquis a financial penalty of £1,976,000; and
 - b. requires Vanquis to pay restitution estimated at £11,876,000 to the appropriate persons in accordance with the arrangements described in Annex B to this Notice.
- 1.2 Vanquis agreed to voluntarily pay restitution in an amount estimated to be £156,905,000 in addition to the sum referred to above and therefore the estimated total cost of restitution which Vanquis is to pay is £168,781,000.
- 1.3 Vanquis agreed to settle at an early stage of the Authority's investigation. Vanquis 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 £2,822,900 on Vanquis.

2. SUMMARY OF REASONS

- 2.1 On the basis of the facts and matters described below, Vanquis breached Principle 6 (Customers' interests) and Principle 7 (Communications with clients) of the Authority's Principles for Businesses between 1 April 2014 and 19 April 2016 in relation to its telephone sales of an optional add-on product, the ROP (as defined below), to its credit card customers.
- 2.2 Vanquis breached Principle 6 (Customers' interests) as it did not pay due regard to the interests of its customers and failed to treat its customers fairly. The Authority considers that there were deficiencies in Vanquis' sales calls in that customers were not made aware on the call that the ROP attracted interest: the cost of the ROP was charged as a purchase transaction which meant that the ROP attracted interest at the card rate which was compounded unless the account balance was paid in full at the end of each month.
- 2.3 Vanquis breached Principle 7 (Communications with clients) as it did not pay due regard to the information needs of its customers at the point of sale and failed to communicate with its customers in a way that was clear, fair and not misleading. Vanquis' sales scripts lacked adequate information. In particular the sales scripts and the sales calls on which the scripts were based failed to disclose adequate information about the ROP namely that the ROP would be treated as a purchase transaction and that interest would accordingly be charged and accrue on the ROP fee. The annual percentage rate customers paid on purchase transactions was set out in the terms and conditions. This could vary from 19.9% to 79.9%.
- 2.4 As a result of the failure to disclose during the sales call that the ROP was treated as a purchase transaction and that interest would accordingly be charged and accrue on the ROP fee, there was a serious risk that customers agreed to purchase the ROP without understanding the full cost of the ROP and that customers were unaware that interest could be charged on the ROP. As the ROP was charged as a purchase transaction, if a customer did not pay off the balance on their account in full at the end of the month they would pay interest on the previous month(s)' ROP interest.
- 2.5 The Authority therefore exercises its power under section 384(1) of the Act to require Vanquis to pay restitution to all those customers who purchased the ROP during the Relevant Period by refunding the interest element they paid on the ROP until 30 days after they received the communication referred to in paragraph 4.22 below. Vanquis has agreed as part of the resolution of the matters set out in this Notice to pay restitution by refunding the interest element they have paid on the ROP on the same basis and on a voluntary basis, notwithstanding that this is a period before the FCA regulated consumer credit activities, to all customers who purchased the ROP before the relevant period from inception of the ROP in or about June 2003 to 31 March 2014.
- 2.6 The mechanism by which payment will be made by Vanquis to its customers is described in Annex B to this Notice.
- 2.7 The failings in this case and the nature of Vanquis' breaches warrant the imposition of a financial penalty. In determining the amount of that penalty the Authority has had regard to the fact that Vanquis agreed to suspend sales of the ROP from 19 April 2016 while the issues were resolved, has co-operated

fully with the Authority and has agreed to pay restitution to its customers on a voluntary basis in relation to the period from June 2003 to 31 March 2014.

- 2.8 This action supports the Authority's operational objective of consumer protection.
- 2.9 Vanquis co-operated proactively with the Authority's investigation which has enabled a constructive working relationship and the Authority to conclude its investigation swiftly.

3. **DEFINITIONS**

- 3.1 The definitions below are used in this Notice:

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

"APR" means annual percentage rate;

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

"DEPP" means the Decision Procedure and Penalties manual;

"EG" means the Enforcement Guide;

the "entire period" means the period from June 2003 to 30 days after the date of the communication referred to in paragraph 4.22 below;

"OFT" means the Office of Fair Trading;

the "Principles" means the Authority's Principles for Businesses;

the "relevant period" means the period from 1 April 2014 to 19 April 2016;

"ROP" means the Repayment Option Plan;

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

"Vanquis" means Vanquis Bank Limited.

4. **FACTS AND MATTERS**

Background

- 4.1 Vanquis is a non-standard credit card lender with a range of customers from prime to sub-prime. It is a subsidiary of Provident Financial plc, a FTSE 250 company. Vanquis has approximately 1.7 million customers and is a dedicated specialist non-standard credit card issuer in the UK credit card market.
- 4.2 Customers predominantly chose a Vanquis credit card because they had experienced issues with credit in the past, had difficulties in accessing credit from mainstream providers, and may have had limited fall back options if they

experienced financial difficulties. Vanquis customers were offered a Vanquis credit card to allow them to access credit and to enable them to build or rebuild their credit.

The ROP

- 4.3 Vanquis sold the ROP to its credit card customers as an optional add-on product with the card. The ROP was offered to all Vanquis credit card customers to support them in the process of building or re-building their credit and credit rating and to give them access to tools which helped them manage their account, particularly when experiencing specified difficult financial circumstances. The ROP was designed to help assist customers in managing their credit. Customers were free to purchase the ROP at any time during their agreement and could opt out at any point.
- 4.4 Vanquis launched the sale of the ROP in or around June 2003. There were two different types of ROP plan. The full plan was available to employed or self-employed customers. The standard plan was available to customers who were not eligible for the full plan, such as customers who were not working, retired, homemakers, students or the unemployed. Both the full and the standard plan provided customers with various benefits which were specific, available in defined circumstances and for defined periods. The relevant benefits were:
- a. Account freeze - a customer could freeze their account for up to two years if they experienced a change in circumstances which impacted their ability to make payments. While the account was frozen, the customer would not be able to use their credit card but would not incur interest or charges and need not make any monthly repayments. The customer's account was reported in line with credit scoring rules to credit bureaux as being up to date so that the customer's credit rating was protected. The change in circumstances under which an account freeze could be activated included accident, illness, unemployment, jury service, maternity/paternity leave, loss of income (short term) or for the self-employed, loss of work/contracts.
 - b. Payment holiday - a customer could choose not to pay their monthly payment once every 12 months on a month of their choice. To be eligible for a payment holiday the customer must have held their account for six months, not used a lifeline or payment holiday in the preceding two months and kept their account "in order" during that time. The customer's account would be reported in line with credit scoring rules to credit bureaux as being up to date so that their credit rating was protected. Customers would continue to incur interest during the payment holiday.
 - c. Lifeline - a Lifeline was activated automatically by Vanquis in relation to a customer's account if a customer did not make their minimum monthly payment by the due date for any reason. Vanquis automatically activated the lifeline once a year provided the customer had held their account for six months, had not used a lifeline or payment holiday in the preceding two months and their account was "in order". This meant that the customer was not charged a late payment and/or over limit fee that would have been incurred for a missed payment. The customer was not able to use their card until the payment was made. However, their account would be reported in line

with credit scoring rules to credit bureaux as being up to date. Customers would continue to incur interest during the period of activation of the lifeline.

- d. SMS services - Vanquis sent a monthly payment due reminder via text message to customers five days before the payment due date. Vanquis also sent a near limit/over limit alert to a customer via text message if the customer was over or close to their credit limit. The SMS services were intended to help customers manage their account and keep it in order so that the customer could build their credit rating, obtain an increase in their credit limit and not incur any related fees.
- 4.5 The monthly cost of the ROP was £1.29 per £100 or 1.29% of the outstanding balance on a customer's account every month for the full plan, and £1.19 or 1.19% of a customer's outstanding balance on their account every month for the standard plan. This meant that the cost to the customer was not fixed and fluctuated depending on the customer's outstanding balance each month. As such, where a customer paid off their balance in full, they would not incur any charges - principal or interest - for the ROP in that month.

Sales of the ROP

- 4.6 From June 2003 until 19 April 2016, Vanquis sold the ROP to existing customers on a non- advised basis by telephone.
- 4.7 Consumers applied for a Vanquis credit card predominately by mail or online with a small proportion of face to face sales. As part of the application process the customer was provided with the terms and conditions relating to their account and the pre-contract information. Following submission of the application, Vanquis provided a further set of the terms and conditions to customers. The customer received a welcome call from Vanquis at which point Vanquis completed its underwriting and informed the customer of their credit line. Following the welcome call, Vanquis issued a credit card to the customer. On receipt of the credit card the customer received a welcome pack, including the terms and conditions, and was required to call Vanquis in order to activate their credit card.
- 4.8 Vanquis offered the ROP to customers at various stages in the customer relationship. Vanquis made an initial offer of the ROP to customers when the customer called Vanquis to activate their credit card. During the course of the call, Vanquis provided the customer with information regarding the management of their account and customers were then offered the opportunity to "opt into" the ROP. Vanquis also made outbound calls to customers offering existing customers the opportunity to "opt in" to the ROP if they had not already opted in at the time of activation of their credit card. The ROP was predominantly offered and sold to customers at the point at which customers activated their credit card. Once customers purchased the ROP, they received a ROP welcome letter, which enclosed the full terms and conditions of the ROP.
- 4.9 Whilst the terms and conditions included a term to the effect that the ROP was a purchase transaction which could incur interest at the card rate, and the same information was provided in the customer "Welcome Pack", the Authority does not accept that the provision of the terms and conditions could ever be sufficient to fulfil Vanquis' obligations to provide its customers with adequate information about the ROP when it was sold to customers on the sales call.

Customers may not have been aware of the ROP on receipt of the terms and conditions and Vanquis had not introduced customers to the ROP at that point.

The sales call

- 4.10 Vanquis' sales calls to customers were scripted. However, Vanquis' sales calls did not provide customers with adequate information about interest incurred on ROP charges at the point of sale.
- 4.11 The sales scripts prompted the sales agents to offer the ROP to customers once their credit card had been activated. The sales scripts and the calls followed this pattern:
- a. The sales agent explained that "opting into" the ROP was optional.
 - b. The sales agent explained the features and benefits of the ROP, as set out in paragraph 4.4 above.
 - c. The sales agent then provided the customer with details of the cost of the ROP, namely £1.29 (£1.19 for standard plan customers) per £100 of a customer's outstanding balance:

"The plan costs just £1.29 for every £100 of your outstanding balance each month."
 - d. The sales agent asked the customer if they wished to "opt-in" to the ROP.
 - e. The sales agent then informed the customer of their right to cancel the ROP at any time and the procedure for doing so.
- 4.12 There was a failing with the sales calls in that Vanquis did not fully explain or set out to customers that the ROP attracted interest and was charged as a purchase transaction (this meant that the ROP attracted interest at the card rate and was compounded unless the account balance was paid in full at the end of each month). The ROP would attract interest at the card rate in the same way as other purchase transactions. In effect, unless the customer repaid their entire balance every month, in the following month(s) the customer would be paying interest on the previous month's ROP charge.
- 4.13 There were two elements to the cost of the ROP:
- a. the principal amount; and
 - b. the interest charged on the cost of the ROP as a consequence of it being treated as a purchase transaction applied to the customer's account.
- 4.14 As noted above, during the sales calls, Vanquis' sales agents informed customers that the cost of the ROP was £1.29 (£1.19 for standard plan customers) per £100 of a customer's outstanding balance.
- 4.15 The APR customers paid on purchase transactions was set out in the terms and conditions. This could vary from 19.9% to 79.9%.

- 4.16 The Authority's review of a sample of Vanquis' sales calls found that in 100% of the sales (40 of 40 sales) the sales agents did not explain to customers that if they incurred an ROP charge on an unpaid balance, interest would be charged on the outstanding ROP balance in addition to interest being charged on any purchases they had made.

Purchase and usage rates of the ROP

- 4.17 During the relevant period, the percentage of Vanquis' customers who purchased ROP was:

Date	Penetration rate
March 2014	49.6%
March 2015	46.5%
March 2016	44.8%

- 4.18 Of those customers that purchased the ROP, product usage for 2014 and 2015 for each benefit of the ROP was as follows:

Benefit	Usage in 2014	Usage in 2015
Account freeze	3.0%	3.3%
Lifeline	39.2%	38.8%
Payment holiday	2.3%	3.7%
Near-limit SMS reminder	23.8%	21.5%
Over-limit SMS reminder	11.2%	8.9%
SMS payment reminder	85.7%	86.1%

The usage rates of ROP features varied over time, in part due to prevailing macro-economic conditions. For example, the usage rate of Account Freeze – before the relevant period – in 2008 was over double the usage rate in 2014.

- 4.19 The ROP was a significant revenue stream for Vanquis. As at March 2016, the outstanding balances of customers who opted into the ROP held by Vanquis were £595.5m. This equated to 41.2% of total outstanding balances as a percentage of Vanquis' book.

Engagement with the Authority

- 4.20 Following the transfer of regulation of consumer credit from the OFT to the Authority on 1 April 2014, Vanquis applied to vary its permissions to add consumer credit.

- 4.21 During this process, the Authority raised concerns with Vanquis as to whether Vanquis' customers understood the ROP's full cost and benefits, including the potential financial benefits and whether it offered value for money.
- 4.22 The Authority subsequently engaged in detailed correspondence with Vanquis in relation to the ROP. In response to the Authority's concerns, on 19 April 2016 Vanquis agreed to and applied for the imposition of a voluntary requirement whereby Vanquis agreed to:
- a. immediately cease the offer or sale of the ROP to all existing and new customers who had not already purchased the ROP;
 - b. provide all existing customers who as of the date of the requirement had purchased the ROP with a clear written explanation of the features and cost of the ROP including (i) the cost of the ROP, including interest and impact on the APR, for a representative outstanding balance of £0, £1,000 and either the maximum credit limit available to the customer or the maximum potential credit limit of £3,500; (ii) the benefits of the ROP (including the potential financial benefits); (iii) the impact of activating each of the account freeze, payment holiday or lifeline on the customer's internal credit rating and subsequent chance of obtaining a credit limit increase or a reduction to a lower APR with Vanquis; (iv) whether standard forbearance was available to the customer instead of, alongside or subsequent to activating the ROP (together with a description of the benefits/drawbacks for the client of such forbearance being exercised); (v) any exclusions that apply to activation of the ROP (example of things this might include were: non-concurrent use of features; length of time before eligibility; definition of 'customer account year'; and definition of 'near limit'); (vi) an explanation that the consequence where customers have either: (a) used a lifeline and failed to make that minimum payment before the next minimum payment is due on their account or (b) used a lifeline or taken a payment holiday and miss a further payment on their account at a point in the remaining part of the account year when a lifeline or a payment holiday is not available, is that the non-payment will be reported to the credit bureaux; and (vii) the level of evidence required for any activation and the process for supplying it;
 - c. ask all existing customers whether they wished to continue with the ROP and provide details of (i) the process for cancelling the ROP; and (ii) the potential consequences of not continuing with the ROP;
 - d. amend its policies to provide that, for all current and future customers of the ROP, Vanquis will annually remind each customer of their purchase of the ROP by providing that customer with written information reminding them that they continue to have/pay for the ROP and outlining the various features, benefits and exclusions as well as the cost of the ROP; and
 - e. provide the Authority with proposals as to how the ROP would be sold to consumers.

Impact on customers

- 4.23 As a result of the lack of information provided by Vanquis during the sales call, some Vanquis customers who purchased the ROP are unlikely to have been aware of the fact that the ROP attracted interest and was charged as a purchase transaction (this meant that the ROP attracted interest at the card rate and was compounded unless the account balance was paid in full at the end of each month).
- 4.24 The cost of the ROP and the interest charged on the ROP (which was compounded) may have contributed to customers not reducing their balance if they only made their minimum payment. As a result, Vanquis raised the minimum payment due from its customers prior to April 2015. In practice, this minimum payment, which was higher than the industry standard and regulatory requirement, reduced the interest accruing on customer accounts by an amount equivalent to the cost of the ROP.

5. FAILINGS

- 5.1 The regulatory provisions relevant to this Final Notice are referred to in Annex A.

Principle 6 - failure to pay due regard to the interests of customers

- 5.2 Vanquis breached Principle 6 (Customers' interests) as it did not pay due regard to the interests of its customers and failed to treat its customers fairly. In particular there were deficiencies in Vanquis' sales calls as a result of which customers were not made aware that the ROP attracted interest. The cost of the ROP was charged as a purchase transaction; this meant that the ROP attracted interest at the card rate which was compounded unless the account balance was paid in full at the end of each month.

Principle 7 - failure to give adequate information

- 5.3 Vanquis breached Principle 7 (Communications with clients) as it did not pay due regard to the information needs of its customers at the point of sale and failed to communicate with its customers in a way that was clear, fair and not misleading. Vanquis' sales scripts lacked adequate information. In particular the sales scripts and the sales calls on which the scripts were based failed to disclose adequate information about the ROP namely that the ROP attracted interest and would be treated as a purchase transaction (this meant that the ROP attracted interest at the card rate which was compounded unless the account balance was paid in full at the end of each month). The APR customers paid on purchase transactions was set out in the terms and conditions. This could vary from 19.9% to 79.9%.
- 5.4 Vanquis introduced and sold ROP in the same telephone call. As a result of the failure to disclose during the sales call that ROP was treated as a purchase transaction and that interest would accordingly be charged and accrue on the ROP fee, there was a serious risk that customers agreed to purchase the ROP without understanding the full cost of the ROP and that customers were unaware that interest could be charged on the ROP. The effect of the failure to disclose this information at the point of sale meant that Vanquis created a favourable situation in which to sell the ROP.

Conclusion

- 5.5 Having regard to the facts and matters, the Authority considers that Vanquis has breached Principles 6 (Customers' interests) and 7 (Communications with clients). Consequently it is appropriate and proportionate in all the circumstances to take disciplinary action against Vanquis for the breaches.

6. SANCTION

Breach of section 384(1) - restitution

- 6.1 Pursuant to section 384(1) and section 384(5) of the Act, the Authority may exercise the power to require restitution if it is satisfied that a person has contravened a relevant requirement and that profits have accrued to him as a result of the contravention, or that one or more persons have suffered loss or been otherwise adversely affected as a result of the contravention.
- 6.2 Section 384(5) of the Act provides that the power referred to in section 384(1) of the Act is a power to require the person concerned, in accordance with such arrangements as the Authority considers appropriate, to pay to the appropriate person or distribute among the appropriate persons such amount as appears to the Authority to be just having regard to the profits appearing to the Authority to have accrued.
- 6.3 Section 384(7) of the Act provides that a "Relevant requirement" includes "(a) a requirement imposed by or under [the] Act".
- 6.4 The Authority has published guidance on the exercise of its power under section 384 of the Act in Chapter 11 of its Enforcement Guide.
- 6.5 The Principles are a general statement of the fundamental obligations of authorised firms under the regulatory system and constitute a set of rules made under the Act. Accordingly, a breach of the Principles constitutes a breach of a relevant requirement for the purposes of section 384(7) of the Act.
- 6.6 In this case, customers who purchased the ROP during the relevant period were charged interest. The loss suffered by each customer who opted in to the ROP is the interest element charged on the ROP during the relevant period. The estimated total losses incurred by customers in terms of the interest charged on the ROP during the period from 1 April 2014 to 30 days after each customer received the communication referred to in paragraph 4.22 above is £11,876,000. The estimated total losses incurred by customers in terms of the interest charged on the ROP during the entire period are £168,781,000.
- 6.7 Prior to 1 April 2014 Vanquis was required to comply with the regulatory regime operated by the OFT. Following the transfer of regulation of consumer credit from the OFT to the Authority on 1 April 2014, Vanquis was required to comply with the Authority's Principles.
- 6.8 As set out in this Notice, Vanquis has breached Principle 6 (Customers' interests) and Principle 7 (Communications with clients) of the Authority's Principles in relation to its sale of the ROP. Accordingly, the Authority hereby requires Vanquis to pay restitution for the period 1 April 2014 to period until 30 days after the date of the communication referred to in paragraph 4.22 above in accordance with the arrangements set out in Annex B to this Notice.

- 6.9 Vanquis has agreed to pay restitution on a voluntary basis to all those customers the interest they have paid on the ROP from inception of the ROP in June 2003 to 31 March 2014 similarly in accordance with the arrangements set out in Annex B to this Notice.

Penalty

- 6.10 The Authority has considered disciplinary options and other options available to it and has concluded that a financial penalty is an appropriate sanction, in addition to requiring Vanquis to pay restitution, in the particular circumstances of this case.
- 6.11 The Authority's policy on the imposition of financial penalties is set out in chapter 6 of DEPP. In determining the financial penalty, the Authority has had regard to this guidance.
- 6.12 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 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

Step 1: disgorgement

- 6.13 Pursuant to DEPP 6.5A.1G, at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach, where it is practicable to quantify this. Where a firm agrees to pay restitution, to compensate those who have suffered loss as a result of the breach, the Authority will take this into consideration.
- 6.14 DEPP 6.5A.1G(2) states that where a firm agrees to carry out a redress programme to compensate those who have suffered loss as a result of the breach, or where the Authority decides to impose a redress programme, the Authority will take this into consideration. In such cases the final penalty might not include a disgorgement element or the disgorgement element might be reduced.
- 6.15 Vanquis is being required to pay an estimated £11,876,000 by way of restitution to its customers for the period 1 April 2014 to period until 30 days after the date of the communication referred to in paragraph 4.22 above and has also agreed to voluntarily pay £156,905,000 by way of restitution to its customers for the period June 2003 to 31 March 2014. These sums reflect the interest which was charged on and which Vanquis received from the sales of the ROP during the period June 2003 to 30 days after the date of the communication referred to in paragraph 4.22 above. In these circumstances, the Authority proposes no disgorgement.
- 6.16 The Step 1 figure is therefore £0.

Step 2: the seriousness of the breach

- 6.17 Pursuant to DEPP 6.5A.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.

- 6.18 In this case the Authority considers that the total revenue generated by Vanquis during the relevant period is indicative of the harm or potential harm caused by the breach and has therefore used this to calculate the relevant revenue. The Authority has therefore determined a figure based on a percentage of Vanquis' relevant revenue from the ROP during the relevant period. The net revenue generated during the relevant period is £28,229,113 which is the total fees and interest which Vanquis received from the sales of the ROP during the relevant period.
- 6.19 In deciding on the percentage of the relevant revenue that forms the basis of the Step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. 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 firms there are the following five levels:
- Level 1 - 0%
 - Level 2 - 5%
 - Level 3 - 10%
 - Level 4 - 15%
 - Level 5 - 20%
- 6.20 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.
- 6.21 DEPP 6.5A.2G lists factors likely to be considered "level 4 or 5 factors". The Authority has considered these and has concluded that these do not apply.
- 6.22 DEPP 6.5A.2G(12) lists factors that are likely to be considered "level 1, 2 or 3 factors". Of these, the Authority considers the following factors to be relevant in this case:
- a. there was no, or limited, actual or potential effect on the orderliness of, or confidence in, markets as a result of the breach;
 - b. there is no evidence that the breach indicates a widespread problem or weakness at Vanquis; and
 - c. that the breach was committed negligently or inadvertently.
- 6.23 The Authority also considers the following factors are relevant under DEPP 6.2.1G:
- a. Vanquis generated a revenue stream arising from the interest element of the cost of the ROP;
 - b. customers who were affected by the breach were likely to be vulnerable given Vanquis' customer demographic, namely consumers who were trying to rebuild their credit status and who had difficulties in accessing credit from mainstream providers; and

- c. Vanquis failed to ensure that the nature and extent of the ROP was clearly and fairly represented during the sales calls, in that the cost of the ROP attracted interest and was charged as a purchase transaction (the ROP therefore attracted interest at the card rate which was compounded unless the account balance was paid in full at the end of each month) was not disclosed to customers.
- 6.24 The Authority has also considered the factors set out in DEPP 6.5A.2G(11) to determine whether a level 4 or 5 should be applied for the seriousness of the breach. The Authority does not consider that these factors are relevant to the breaches identified.
- 6.25 Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 3 and so the Step 2 figure is 10% of £28,229,113.
- 6.26 The figure at Step 2 is therefore £2,822,911.

Step 3: mitigating and aggravating factors

- 6.27 Pursuant to DEPP 6.5A.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, to take into account factors which aggravate or mitigate the breach.
- 6.28 The Authority considers that the following factors aggravate the breach:
- a. Vanquis' was made aware of the Authority's concerns about the ROP from April 2014; and
 - b. in January 2013 the Authority and the OFT jointly produced guidance to firms in relation to payment protection products which firms were expected to have regard to in fulfilling their obligations under the relevant regulatory framework. The Authority recognises that the ROP is not a payment protection insurance product, but nevertheless the scope of the guidance applies to the ROP. The guidance indicated that new forms of protection may offer benefits to customers but may also pose risks and that it was important for firms to mitigate these risks to help achieve good outcomes for consumers and avoid significant detriment arising.
- 6.29 The Authority considers that the following factors mitigate the breach:
- a. once the breaches had been identified Vanquis took a number of remedial steps of its own initiative. In particular, Vanquis agreed to (i) immediately suspend sales of the ROP to both existing and new customers while these issues were resolved with effect from 19 April 2016; (ii) conduct a comprehensive customer contact exercise in which customers were informed of the features and costs of the ROP; (iii) ask all of its existing customers whether they wished to continue with the ROP; (iv) amend its policies to provide that all existing and future customers be provided with written information reminding them of the features, benefits and exclusions as well as the cost of the ROP; and (v) provide the Authority with proposals as to how the ROP would be sold to customers; and

- b. Vanquis has agreed to voluntarily pay restitution by refunding the interest element charged on the ROP on the same basis as the Authority's requirement under section 384 of the Act to customers who purchased the ROP during the period June 2003 to 31 March 2014.

6.30 Having taken into account these aggravating and mitigating factors, the Authority considers that these factors balance each other out and therefore that the Step 2 figure should not be altered.

6.31 The figure at Step 3 is therefore £2,822,911.

Step 4: adjustment for deterrence

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

6.33 The Authority considers that the Step 3 figure of £2,822,911 represents a sufficient deterrent to Vanquis and others, and so has not increased the penalty at Step 4.

6.34 The figure at Step 4 is therefore £2,822,911.

Step 5: settlement discount

6.35 Pursuant to DEPP 6.5A.5G, if the Authority and the firm 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 firm reached agreement.

6.36 The Authority and Vanquis reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure of £2,822,911 (which has been rounded down to £2,822,900).

6.37 The figure at Step 5 is therefore £1,976,038 which has been rounded down to £1,976,000.

6.38 The Authority hereby imposes a financial penalty of £1,976,000 (£2,822,900 before Stage 1 discount) on Vanquis for breaching Principles 6 (Customers' interests) and 7 (Communications with clients).

7. PROCEDURAL MATTERS

7.1 This Final Notice is given to Vanquis under, and in accordance with, section 390 of the Act.

7.2 The following statutory rights are important.

Decision maker

7.3 The decision which gave rise to the obligation to give this Final Notice was made by the Settlement Decision Makers.

Manner and time for payment

- 7.4 The financial penalty must be paid in full by Vanquis to the Authority no later than 13 March 2018, being 14 days from the date of this Notice.

If the financial penalty is not paid

- 7.5 If all or any of the financial penalty is outstanding on 13 March 2018, the Authority may recover the outstanding amount as a debt owed by Vanquis and due to the Authority.

Publicity

- 7.6 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.
- 7.7 The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

- 7.8 For more information concerning this matter generally, contact Rebecca Irving at the Authority (direct line: 020 7066 1424).

Bill Sillett

Head of Department

Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX A

1. STATUTORY PROVISIONS

1.1 The Authority's statutory objectives are set out in section 1C of the Act and include consumer protection.

1.2 The Authority has the power, pursuant to section 206 of the Act, to impose a financial penalty of such amount as it considers appropriate where the Authority considers an authorised person has contravened a requirement imposed on him by or under the Act.

1.3 The Authority has the power, pursuant to section 384 of the Act, to require restitution:

"(1) [The Authority] may exercise the power in subsection (5) if it is satisfied that an authorised person ("the person concerned") has contravened a relevant requirement...and

(a) that profits have accrued to him as a result of the contravention; or

(b) that one or more persons have suffered loss or been otherwise adversely affected as a result of the contravention."

1.4 Section 384(5) of the Act provides that:

"The power referred to in [subsection (1)] is a power to require the person concerned, in accordance with such arrangements as the regulator exercising the power ("the regulator concerned") considers appropriate, to pay to the appropriate person or distribute among the appropriate persons such amount as appear to the regulator concerned to be just having regard -

(a) in a case within paragraph (a) of subsection (1) or (3), to the profits appearing to the regulator concerned to have accrued."

2. REGULATORY PROVISIONS

2.1 In exercising its power to impose a financial penalty, the Authority has had regard to the relevant regulatory provisions, guidance and policy published in the Authority Handbook. The main provisions that the Authority considers relevant to this case are set out above in Section 384(5) of the Act.

Principles for Businesses ("Principles")

2.2 Under the Authority's rule-making powers, the Authority has published in the Authority Handbook the Principles which apply either in whole, or in part, to all authorised persons.

2.3 The Principles are a general statement of the fundamental obligations of firms under the regulatory system and reflect the Authority's operational objectives.

A firm may be liable to disciplinary sanction where it is in breach of the Principles.

2.4 Principle 6 (customers' interests') states that:

"A firm must pay due regard to the interests of its customers and treat them fairly".

2.5 Principle 7 (communications with clients) states that:

"A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading".

ANNEX B

1. DEFINITIONS

The definitions used in the Final Notice continue to apply in this Annex. In addition, in this Annex, the following definitions will apply:

- "charged off" means a situation where a customer is in default to Vanquis, Vanquis has lodged a default (including by way of default notice or with a credit reference agency) and in some cases is no longer actively pursuing the debt.
- "Common Process" means the process/methodology by which each of the eligible refund populations are to be paid their Refunds as set out in paragraph 3 below.
- "DRO" means debt relief order.
- "Eligible Customers" means Population 1 Customers, Population 2 Customers, Population 3 Customers or Population 4 Customers, excluding any Excluded Populations.
- "Excluded Populations" means the populations of customers excluded from the Scheme, as described in paragraph 4.3 below.
- "last balance" means the last account balance reported on Vanquis' internal system for the customer.
- "most recent balance" means the balance held by the debt purchaser, and includes payments made to the debt since it was sold by Vanquis.
- "notional interest" means simple interest at 8% applied to customers at the point at which they have a credit balance with Vanquis.
- "Population 1" or "Population 1 Customers" means the category of customers eligible to receive a Refund who have open accounts with Vanquis, as described in paragraph 4.1.1 below.
- "Population 2" or "Population 2 Customers" means the category of customers eligible to receive a Refund who have closed accounts with Vanquis in good order, or who have settled their account with Vanquis, as described in paragraph 4.1.2 below.
- "Population 3" or "Population 3 Customers" means the category of customers eligible to receive a Refund who have debt owing to Vanquis and whose debt is managed by a third-party, as described in paragraph 4.1.3 below.
- "Population 4" or "Population 4 Customers" mean the category of customers eligible to receive a Refund whose debt has been charged off and sold by Vanquis, as described in paragraph 4.1.4 below.
- "Refund" or "Refunds" means a payment(s) to customers in respect of the interest element customers paid on the ROP and the notional

interest, made either by way of customer balance adjustment or cheque.

- "Scheme" means the arrangements described in 2.1 below.
- "up to date balance" means the current account balance on Vanquis' internal systems.

2. **THE RESTITUTION SCHEME**

- 2.1 The Authority has exercised its powers under section 384(1) of the Act to require Vanquis to pay restitution to customers who purchased the ROP in the relevant period by refunding the interest element customers paid on the ROP from 1 April 2014 to 30 days after the communication Vanquis sent to customers as part of the Voluntary Requirement agreed between Vanquis and the Authority on 19 April 2016. Vanquis has additionally voluntarily agreed to pay restitution on the same basis to all customers who purchased the ROP from June 2003 to 31 March 2014 by refunding the interest element they have paid on the ROP up to 30 days after the communication Vanquis sent to customers as part of the Voluntary Requirement agreed between Vanquis and the Authority on 19 April 2016 (the "Scheme").
- 2.2 The Scheme will result in an estimated total of £168,781,000 being refunded to customers, including notional interest.
- 2.3 All Refunds will be made in accordance with the refund methodology and eligibility criteria as set out below.
- 2.4 Vanquis will administer the Scheme. Vanquis will seek to contact Eligible Customers proactively and will address customer enquiries during the Scheme process. Details of the Scheme will also be available on Vanquis' website. Vanquis will also keep and maintain appropriate records of all Refunds. Records will be retained for six years for customers and two years for non-customers. The communications with the customer will contain:
- 2.4.1 the reasons for the restitution. Namely, that the ROP was a purchase transaction subject to interest, which was not made clear at the point of sale; and
- 2.4.2 an invitation to contact Vanquis should the customer have any issues about the restitution or the ROP. This invitation will include an address, email address and telephone number of Vanquis' complaint line. If a customer contacts Vanquis with a complaint, Vanquis will ensure that customers are informed of their right to contact the Financial Ombudsman Service as is standard practice in line with Vanquis' obligations under the Dispute Resolution: Complaints Sourcebook set out in the Authority's Handbook.

3. **REFUND METHODOLOGY**

- 3.1 For each of the Eligible Customers the Refund will be paid in accordance with the Common Process, as set out below:
- 3.1.1 the customer's contact details will be ascertained by Vanquis initially from its customer records or by debt purchasers for Population 4

Customers. Where Vanquis has not had recent contact with the customer, Vanquis will verify the customer's address, including through the use of enhanced tracing processes, which shall include the use of relevant internal and external data sources. For example, Vanquis will use tracing tools linked to credit reference agency data to trace customers;

- 3.1.2 customer contact will take place by email, letter, telephone or through a third party manager (for Population 3 Customers) or a debt purchaser (for Population 4 Customers) as appropriate. Where Vanquis holds information about a customer's particular communication channel preference, this channel will be used to communicate with the customer in the first instance except (i) for customers referred to in paragraph 5.3 below and (ii) where Vanquis does not hold customer communication preferences, it will use email in the first instance. All customers who receive a cheque will be sent a letter and cheque by post;
 - 3.1.3 if the customer is to receive a Refund that is less than their up to date balance (for Population 1 Customers and Population 3 Customers), their last balance (for Population 2 Customers) or their most recent balance (for Population 4 Customers), the customer will receive the Refund by way of a balance adjustment;
 - 3.1.4 if a customer is to receive a Refund that is greater than their account balance, the customer will receive the Refund by way of a balance adjustment to zero and the remainder as a cheque;
 - 3.1.5 if the customer is to receive a Refund that is less than any settlement or write off amount previously granted by Vanquis to the customer, the customer will not receive any Refund; and
 - 3.1.6 if the customer is to receive a Refund that is greater than any settlement or write off amount previously granted by Vanquis to the customer, such Refund will be paid, net of any such settlement or write off amount, by cheque.
- 3.2 Customers with special circumstances will be subject to the Common Process and will be treated equally by Vanquis irrespective of the amount of any Refund. Vanquis will review the entire population of customers who fall or potentially fall within this population. In relation to customers who Vanquis has determined fall within this population, Vanquis may contact such customers by telephone in the first instance to ensure that the terms of the Scheme are effectively communicated to and understood by the customer. This population includes politically exposed persons, customers under sanctions, customers considered to be particularly vulnerable (customers who may be disadvantaged as a result of having a condition, or other impairment, or who are experiencing circumstances which might affect their ability to understand the Scheme) and customers who have previously made a complaint which has been escalated.

4. **ELIGIBILITY CRITERIA OF REFUND RECIPIENTS**

- 4.1 Customers eligible to receive Refunds will fall into one of four categories as follows:

- 4.1.1 Population 1 - customers with open Vanquis accounts;
 - 4.1.2 Population 2 - customers with closed Vanquis accounts. These accounts will either be in good order (i.e. no debt is owed to Vanquis) or be closed and settled between Vanquis and the customer;
 - 4.1.3 Population 3 - third party managed accounts, held within Vanquis. These customers are not maintaining their credit agreements and have entered into some sort of debt arrangement with a third party overseeing the arrangement; and
 - 4.1.4 Population 4 - charged off accounts where the debt has been sold to a third party.
- 4.2 While all Refunds to Eligible Customers will be made in accordance with the Common Process, the form of the payment itself and the means by which this is communicated to the customer will differ amongst each population as set out further below.
- 4.3 The following populations will be excluded from the Scheme ("Excluded Populations"):
- 4.3.1 Customers who are subject to a DRO. Vanquis has already provided 100% relief on the debt such customers owe to Vanquis;
 - 4.3.2 Customers in Population 2 and Population 3 whose Refund is £1 or less;
 - 4.3.3 Customers in Population 4 whose Refund is £3 or less;
 - 4.3.4 Customers in Population 4 whose debt owing to Vanquis is barred by statute at the time the Refund is to be paid unless the Refund is greater than the debt owed to Vanquis; and
 - 4.3.5 Customers in Population 4 where:
 - (A) The debt was sold by Vanquis over 1 year ago;
 - (B) The customer has not engaged with Vanquis or the debt purchaser;
 - (C) The customer has not paid down any of the sold debt; and
 - (D) The Refund is less than 2% of the sold debt.

5. **POPULATION 1 REFUNDS**

- 5.1 Population 1 is made up of all active and dormant open accounts with Vanquis. It includes:
- 5.1.1 Accounts that are up to date/in order; and
 - 5.1.2 Accounts which have been charged off, including customers whose accounts have been sent to debt collection agents other than those

customers in debt management arrangements and those non-standard charge-off cases in Population 3.

- 5.2 Other than as set out in paragraphs 5.3 and 5.4 below, Refunds to all Population 1 Customers will be paid in accordance with the Common Process. Payment will be made automatically and customers will be informed of the Refunds by email or letter after payment is made. Refunds which are balance adjustments will also be highlighted on these customers' next statement.
- 5.3 Where the Refund to Population 1 Customers is £1 or less, the Refund will be made by balance adjustment and noted as a line item on the customer's statement. Such customers will also receive generic notification of the Refund by statement message, email and/or a statement leaflet insert.
- 5.4 Vanquis will attempt to trace Population 1 Customers with accounts which have been dormant for two years or more and ask them to confirm their contact details. Where customer addresses cannot be confirmed, the customer will be contacted through a multi-channel approach using their last known contact details and be requested to provide address verification ahead of payment.

6. POPULATION 2 REFUNDS

- 6.1 Population 2 is made up of all accounts closed in good order and accounts which have been closed and settled.
- 6.2 Other than the Refund populations and as set out in paragraph 6.3 below, Refunds to Population 2 Customers will be paid in accordance with the Common Process. Where Vanquis has determined a valid address for the customer, and where the customer's account was closed within the last two years, payment will be made to these customers by way of cheque.
- 6.3 Where the customer account has been closed for two years or more, Vanquis will send (i) a letter to such customer's last known address and, where Vanquis holds the information, (ii) a message to the customer's last known mobile number and email address. Vanquis will pay such customers Refunds once they respond to Vanquis. If such customers separately contact Vanquis, Vanquis will pay them the relevant Refund.

7. POPULATION 3 REFUNDS

- 7.1 Population 3 is made up of all customers with debt owing to Vanquis and whose debt is managed by a third party. This includes customers in debt management arrangements, individual voluntary arrangements and DROs.
- 7.2 Other than the Excluded Populations, Refunds to Population 3 Customers will be paid in accordance with the Common Process. The third party manager will be informed of the Refund, which will likely be by way of adjustment of outstanding debt. Where appropriate, the Refund will also be highlighted on the customer's subsequent monthly statement in cases where one is received.

8. POPULATION 4 REFUNDS

- 8.1 Population 4 is made up of customers whose debt to Vanquis has been sold to third parties, whether performing or non-performing. The population includes

third party managed accounts of the types that would otherwise fall into Population 3.

- 8.2 Other than the Excluded Populations, Refunds to Population 4 Customers will be paid in accordance with the Common Process, except that the third party owner of the debt will make contact and communicate with the customer or the third party acting on behalf of the customer. These customers will be informed of the Refund by email or letter after payment is made. Details of the Refund will be sent by the debt owner to the customer on its own letterhead and will be based on templates provided to the debt owner by Vanquis.

9. **TERMINATION OF THE SCHEME**

- 9.1 Vanquis shall, where possible, make all Refunds within the time required under the Scheme and, notwithstanding any requirement under the Scheme, all Refunds must be paid by 27 February 2019 whereupon the Scheme shall close.

10. **REPORTING**

- 10.1 Vanquis will report to the Authority on the progress of the Scheme on 28 May 2018, 27 August 2018, 27 November 2018 and 25 February 2019. Reports will include such information as the Authority reasonably requires and which Vanquis is reasonably able to provide including details on the number of customers that Vanquis has contacted, of the number of Refunds sent, the number of Refunds paid by way of cheque that have been banked, the number of balance adjustments made to customers' accounts, the number of settlement agreements entered into, and the total amount refunded.
- 10.2 Further, Vanquis will track complaints relating to the Scheme and inform the FOS through current quarterly sessions and inform the FCA during the progress reports on the dates referred to in paragraph 10.1 above.