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## FINAL NOTICE

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**To:** Merlin Loans and Mortgages Limited

**Address:** Lester House Business Centre  
21 Broad Street  
Bury  
Lancashire  
BL9 0DA

**FRN:** 613834

**Dated:** 14 September 2015

### **ACTION**

1. For the reasons set out below in this Final Notice, the Authority hereby takes the following action against Merlin.
2. The Authority gave Merlin a Decision Notice which notified Merlin that for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel Merlin's Interim Permission.
3. Merlin has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to it.
4. Accordingly, the Authority has today cancelled Merlin's Interim Permission.

### **DEFINITIONS**

5. The definitions below are used in this Decision Notice:

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

"the Authority" means the Financial Conduct Authority;

“Awards” means the Final Decisions made by the FOS against Merlin on: 12 November 2014, in relation to Mr R (complaint reference: 1565-3179/AB/BC23); and 6 February 2015, in relation to Mr D (complaint reference: 1585-9103/AB/BC23);

“the Decision Notice” means the Decision Notice given to Merlin dated 4 August 2015;

“DISP” means the Dispute Resolution: Complaints Manual, which is part of the Handbook;

“the FOS” means the Financial Ombudsman Service;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“Merlin” means Merlin Loans and Mortgages Limited;

“Merlin’s Interim Permission” means the interim permission granted to Merlin following the transfer of consumer credit regulation from the OFT to the Authority on 1 April 2014;

“the OFT” means the Office of Fair Trading;

“the Principles” means the Authority’s Principles for Businesses;

“the suitability Threshold Condition” means the threshold condition set out in paragraph 2E of schedule 6 to the Act;

“the Threshold Conditions” means the threshold conditions set out in Schedule 6 to the Act;

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

“the Warning Notice” means the Warning Notice given to Merlin dated 9 July 2015.

## **REASONS FOR THE ACTION**

6. On the basis of the facts and matters and conclusions described in the Warning Notice, and in the Decision Notice, it appears to the Authority that Merlin is failing to satisfy the Threshold Conditions, in that the Authority is not satisfied that Merlin is a fit and proper person having regard to all the circumstances. Merlin has failed to satisfy the Authority that it is conducting its affairs in an appropriate manner, having regard in particular to the interests of consumers.
7. Specifically, Merlin has failed to comply with two Awards made against it, despite repeated requests by the FOS and the Authority that it do so. The basis of the customers’ complaints against Merlin was that it took a credit broking fee of £49.99 from their bank accounts without their permission. Merlin did not seek a judicial review of the Awards, which therefore remain binding on Merlin under section 228(5) of the Act.
8. As a result of Merlin’s persistent failure to comply with the Awards, despite repeated requests by the FOS and the Authority that it do so, Merlin has breached

DISP 3.7.12R(1), which requires a firm to comply promptly with any award or direction made against it by the FOS. Also, by not complying with the Awards, Merlin has also failed to meet the requirements of Principle 6 (Customers' interests) of the Principles, which requires it to pay due regard to the interests of its customers and treat them fairly. Further, by not complying with the Awards, despite repeated requests by the FOS and the Authority that it do so, Merlin has breached Principle 11 (Relations with regulators) of the Principles, which requires a firm to deal with its regulator in an open and co-operative way, and to disclose to the Authority anything relating to the firm of which it would reasonably expect notice.

9. The Authority has therefore concluded that Merlin is failing to satisfy the suitability Threshold Condition in relation to the regulated activities for which Merlin had an Interim Permission.

#### **DECISION MAKER**

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

#### **IMPORTANT**

11. This Final Notice is given to Merlin in accordance with section 390(1) of the Act.

#### **Publicity**

12. The Authority must publish such information about the matter to which this Final 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 Merlin or prejudicial to the interest of consumers.
13. The Authority intends to publish this Final Notice and such information about the matter to which this Final Notice relates as it considers appropriate.

#### **Authority Contact**

14. For more information concerning this matter generally, please contact Roger Hylton at the Authority (direct line: 020 7066 8168).

**John Kirby**  
**Enforcement and Market Oversight Division**