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## FINAL NOTICE

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**To:** Phillip Harold Boakes

**Of:** Prisoner Number A5700DJ  
HMP Wandsworth  
PO Box 757  
Heathfield Road  
Wandsworth  
London  
SW18 3HS

**Individual  
Reference  
Number:** PHB00008

**Dated:** 24 November 2015

### ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Boakes.
2. The Authority gave Mr Boakes the Decision Notice, which notified Mr Boakes that, for the reasons given below and pursuant to section 56 of the Act, the Authority had decided to make an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
3. Mr Boakes has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
4. Accordingly, for the reasons set out below, the Authority hereby makes an order pursuant to section 56 of the Act prohibiting Mr Boakes from performing any function in relation to any regulated activity carried on by any authorised person,

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exempt person or exempt professional firm. The Prohibition Order takes effect from 24 November 2015.

## **DEFINITIONS**

5. The definitions below are used in this Final Notice (and in the Annex):

“the Act” means the Financial Services and Markets Act 2000;

“the Authority” means the body corporate known as the Financial Conduct Authority;

“the Decision Notice” means the Decision Notice given to Mr Boakes dated 2 October 2015;

“EG” means the Enforcement Guide;

“FIT” means the Fit and Proper Test for Approved Persons sourcebook;

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

“Mr Boakes” means Phillip Harold Boakes;

“the Prohibition Order” means the order prohibiting Mr Boakes, pursuant to section 56 of the Act, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm; and

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

## **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

6. The statutory and regulatory provisions relevant to this Final Notice are set out in Annex A.

## **SUMMARY OF REASONS**

7. The Authority has concluded, on the basis of the facts and matters described in the Decision Notice, that Mr Boakes is not a fit and proper person to perform any functions as his conduct demonstrates a clear and serious lack of honesty, integrity and reputation. Specifically, Mr Boakes was:

a. convicted on 31 October 2014 of accepting deposits without authorisation or exemption;

b. convicted on 6 March 2015 of one count of fraudulent trading, one count of carrying on the business of a company with intent to defraud creditors or other fraudulent purpose, and three counts of using a false instrument; and

c. sentenced on 6 March 2015 to 10 years’ imprisonment for these offences.

8. Mr Boakes appealed the sentence he had received. On 23 November 2015, the Court of Appeal decided not to reduce Mr Boakes’ sentence of 10 years’ imprisonment.

## **FACTS AND MATTERS RELIED ON**

9. Mr Boakes was approved by the Authority to perform the controlled functions of: CF21 (Investment Adviser) (between 1 December 2001 and 1 October 2002) in respect of Firm A; CF4 (Partner) (AR) (between 17 July 2007 and 10 December 2008) in respect of Firm B; and CF4 (Partner) (AR) (between 17 July 2007 and 10 December 2008) in respect of Firm C.
10. On 31 October 2014, Mr Boakes was, upon his own confession, convicted on indictment at Southwark Crown Court of the offence specified in paragraph 7(a) above.
11. On 6 March 2015, Mr Boakes was, upon his own confession, convicted on indictment at Southwark Crown Court of the offences specified in paragraph 7(b) above.
12. Also on 6 March 2015, Mr Boakes was sentenced at Southwark Crown Court to a total of 10 years' imprisonment for the offences specified in paragraphs 7(a) and 7(b) above.
13. On 23 November 2015, the Court of Appeal heard Mr Boakes' appeal against his sentence. The Court of Appeal decided not to reduce the sentence of 10 years' imprisonment for the offences specified in paragraphs 7(a) and 7(b) above.
14. Some of the offences specified at paragraphs 7(a) and 7(b) were partly committed whilst Mr Boakes was approved by the Authority to perform controlled functions at Firm B and Firm C. However, the offences were not directly connected with those controlled functions, and related to an unauthorised investment scheme that was operated separately by Mr Boakes.
15. In particular, Mr Boakes:
  - a. between 1 October 2004 and 4 June 2013, carried out a regulated activity in the UK, namely accepting deposits from consumers, whilst not being an authorised or exempt person;
  - b. between 1 October 2002 and 1 January 2013, was knowingly a party to the carrying on a business, namely CurrencyTrader Limited (dissolved), for a fraudulent purpose; and
  - c. between 1 January 2011 and 1 January 2013, used various instruments which he knew to be false, with the intention of inducing particular consumers to accept them as genuine and, by reason of so accepting them, to do or not to do some act to their own or any other person's prejudice.

## **DECISION MAKER**

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

## **IMPORTANT**

17. This Final Notice is given to Mr Boakes in accordance with section 390(1) of the Act.

## **PUBLICITY**

18. 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 Mr Boakes or prejudicial to the interest of consumers.
19. 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**

20. For more information concerning this matter generally, please contact Dilip Vekariya at the Authority (direct line: 020 7066 5520).

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

## **ANNEX**

### **RELEVANT STATUTORY PROVISIONS**

1. The Authority's operational objectives include: securing an appropriate degree of protection for consumers (section 1C of the Act); and protecting and enhancing the integrity of the UK financial system (section 1D of the Act).
2. Section 56(1) of the Act provides:

"The [Authority] may make a prohibition order if it appears to it that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by -

  - (a) an authorised person,
  - (b) a person who is an exempt person in relation to that activity, or
  - (c) a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity."

### **RELEVANT REGULATORY PROVISIONS**

3. In exercising its power to make a prohibition order, the Authority must have regard to guidance published in the Handbook. The relevant main considerations in relation to the action specified above are set out below.

#### **The Enforcement Guide**

4. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in the EG.
5. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
6. EG 9.3 to 9.5 set out the Authority's general policy on making prohibition orders. In particular:
  - (a) EG 9.3 states that the Authority will consider all relevant circumstances, including whether enforcement action has been taken against the individual by other enforcement agencies, in deciding whether to make a prohibition order;
  - (b) EG 9.4 states that the Authority has power to make a range of prohibition orders depending on the circumstances of each case;
  - (c) EG 9.5 states that the scope of a prohibition order will depend on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
7. EG 9.17 sets out that where the Authority is considering whether to make a prohibition order against someone who is not an approved person, the Authority will consider the severity of the risk posed by the individual and may prohibit him

where it considers that it is appropriate to achieve the Authority's statutory objectives.

8. EG 9.18 provides that, when considering whether to exercise its power to make a prohibition order against such an individual, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, the factors set out in EG 9.9. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting that criteria are set out in FIT 2.1, 2.2. and 2.3); the relevance and materiality of any matters indicating unfitness; the length of time since the occurrence of any matters indicating unfitness; and the severity of the risk which the individual poses to consumers and to confidence in the financial system.

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

9. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
10. FIT 1.3.1G(1) states that the most important considerations when assessing the fitness and propriety of a person include that person's honesty, integrity and reputation.
11. FIT 2.1.1G sets out that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters. FIT 2.1.1G notes, amongst other things and by way of example, that:

"... conviction for a criminal offence will not automatically mean an application will be rejected. The [Authority] treats each candidate's application on a case-by-case basis, taking into account the seriousness of, and the circumstances surrounding, the offence, the explanation offered by the convicted person, the relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation."
12. FIT 2.1.3G(1) states that the matters referred to in FIT 2.1.1G include, but are not limited to, whether a person has been convicted of any criminal offence, noting that particular consideration will be given to offences including those of dishonesty, fraud, financial crime or an offence under legislation relating to financial services (amongst other things).