

---

## FINAL NOTICE

---

**To:** **Tiuta Plc (In Liquidation)**

**Address:** **C/o Geoffrey Bouchier & Paul David Williams  
Duff and Phelps  
The Shard  
32 London Bridge Street  
London  
SE1 9SG**

**FRN:** **430956**

**Dated:** **5 November 2015**

### **ACTION**

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Tiuta.
2. The Authority gave Tiuta the Decision Notice which notified Tiuta that for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel Tiuta's Part 4A permission.
3. Tiuta 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 Tiuta's Part 4A permission.

### **DEFINITIONS**

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

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

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

“COND” means the guidance on the threshold conditions section of the Handbook;

“the Decision Notice” means the Decision Notice given to Tiuta on 30 September 2015;

“EG” means the Enforcement Guide;

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

“IPRU-INV” means the Interim Prudential Sourcebook for Investment Businesses section of the Handbook;

“MIPRU” means the Prudential Sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries section of the Handbook;

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

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

“Tiuta” means Tiuta Plc (In Liquidation);

“Tiuta’s Part 4A permission” means the permission granted to Tiuta under Part 4A of the Act; 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 the Annex.

## **SUMMARY OF REASONS**

7. 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 Tiuta is failing to satisfy the Threshold Conditions, in that the Authority is not satisfied that Tiuta’s resources are appropriate in relation to the regulated activities it has permission to carry on. Specifically, Tiuta is unable to meet its liabilities as they have fallen due and is in liquidation.

## **FACTS AND MATTERS RELIED ON**

8. Tiuta became authorised by the Authority on 7 April 2006 to conduct regulated home finance and designated investment business.
9. With effect from 25 May 2011, a requirement was added to Tiuta’s Part 4A permission that:
  - (a) Tiuta may not arrange the sale of any new regulated mortgage contracts; and

- (b) Tiuta may, however assist in the administration and performance of any current regulated mortgage contracts for any of its existing customers.
- 10. With effect from 27 June 2012, a second requirement was added to Tiuta's Part 4A permission that Tiuta shall ensure in order to contribute to the protection of investors of any fund which provides capital to Tiuta, or any company under its control for lending:
  - (a) that Tiuta shall have received specific written approval of [the managers of] each such fund in respect of each loan before entering into any loan agreement whether or not regulated; and
  - (b) that the relevant Company shall remit to the relevant fund immediately all loan book collections, investment property proceeds and redemption moneys, once received by the Company.
- 11. Tiuta must comply with MIPRU 4.2.1R, which requires Tiuta to ensure at all times that it is able to meet its liabilities as they fall due. Also, Tiuta must comply with IPRU-INV 2.2.1R, which requires Tiuta to ensure that it is able to meet its liabilities as they fall due. Tiuta must also comply with Principle 4 (Financial Prudence) of the Authority's Principles for Businesses, which requires Tiuta to maintain adequate financial resources.
- 12. On 28 September 2012, Tiuta entered into administration.
- 13. On 22 October 2012, Tiuta filed at Companies House a Statement of Affairs as at 28 September 2012, which stated that the estimated total deficiency to members was £8,678,308.
- 14. On 24 September 2013, Tiuta moved from administration to creditors' voluntary liquidation.
- 15. Tiuta's Liquidators have been asked by the Authority to apply to cancel Tiuta's Part 4A permission, but they have declined to do so.

#### **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 Tiuta 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 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 Tiuta or prejudicial to the interests of consumers.
- 19. The Authority intends to publish 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, Tiuta should contact Adam Doe at the Authority (direct line: 020 7066 5522).

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

## **ANNEX**

### **RELEVANT STATUTORY PROVISIONS**

1. The Authority's operational objectives established in section 1(B) of the Act include protecting and enhancing the integrity of the UK financial system and securing an appropriate degree of consumer protection.
2. The Authority is authorised by section 55J of the Act to cancel an authorised person's Part 4A permission, where it appears to the Authority that it is failing to satisfy the Threshold Conditions.
3. Paragraph 2D of Part 1B of Schedule 6 to the Act states that:

*"The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on."*

### **RELEVANT HANDBOOK PROVISIONS**

4. In exercising its power to cancel a firm's Part 4A permission, 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.

#### **Relevant Principle**

5. Principle 4 (Financial Prudence) of the Authority's Principles for Businesses requires that a firm must maintain adequate financial resources.

#### **Relevant Rules**

6. Rule MIPRU 4.2.1R requires that:

*"A firm must at all times ensure that it is able to meet its liabilities as they fall due."*

7. Rule IPRU-INV 2.2.1R requires that:

*"A firm must be able to meet its liabilities as they fall due."*

### **Guidance concerning the relevant Threshold Condition**

8. Guidance on the Threshold Conditions is set out in COND, the relevant provisions of which are summarised below.

#### **COND 2.4 – Appropriate Resources (paragraph 2D of Part 1B of Schedule 6 to the Act)**

9. COND 2.4.1AUK(1) reproduces the relevant statutory provision that the resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on.
10. COND 2.4.1BG provides that paragraph 2D of Schedule 6 to the Act sets out the appropriate resources threshold condition for firms carrying on, or seeking to carry on, regulated activities which do not include a PRA-regulated activity.

11. COND 2.4.4G(2) states that relevant matters to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy the appropriate resources threshold condition include whether there are any indications that the firm will not be able to meet its debts as they fall due and whether the firm has entered into liquidation.

#### **OTHER RELEVANT REGULATORY PROVISIONS**

12. The Authority's policy in relation to exercising its powers is set out in EG, the relevant provisions of which are summarised below.
13. EG 8.1(1) provides that the Authority may use its own initiative power to vary or cancel the permission of an authorised person under section 55J of the Act, where the person is failing or is likely to fail to satisfy the threshold conditions for which the Authority is responsible.

#### **Cancelling a firm's Part 4A permission on the Authority's own initiative**

14. EG 8.13(1) states that the Authority will consider cancelling a firm's Part 4A permission using its own initiative power contained in section 55J of the Act in circumstances where the Authority has very serious concerns about the firm, or the way its business is or has been conducted.
15. EG 8.14 provides examples of the circumstances in which the Authority will consider cancelling a Part 4A permission, and EG 8.14(3) specifies that the failure to maintain adequate financial resources is one such circumstance.