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## FINAL NOTICE

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**To:** Pacific Continental Securities (UK) Limited (In Liquidation)

**Address:** C/o Henry Anthony Shinnars and Anthony Cliff Spicer  
Smith and Williamson  
25 Moorgate  
London  
EC2R 6AY

**FCA  
Reference  
Number:** 197332

**Dated:** 15 March 2016

### **ACTION**

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against PCS.
2. The Authority gave PCS the Decision Notice which notified PCS that for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel PCS's Part 4A permission.
3. PCS 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 PCS'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 PCS on 11 February 2016;

"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;

"PCS" means Pacific Continental Securities (UK) Limited (In Liquidation);

"PCS's Part 4A permission" means the permission granted to PCS under Part 4A of the Act;

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

"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 PCS on 15 January 2016.

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

## **FACTS AND MATTERS RELIED ON**

8. PCS became authorised by the Authority on 1 December 2001 to conduct designated investment business.
9. With effect from 15 June 2007, a requirement was added to PCS's Part 4A permission that PCS may not undertake any regulated activity except to the extent necessary to close and settle existing client positions.

10. PCS must comply with IPRU-INV 2.2.1R, which requires PCS to ensure that it is able to meet its liabilities as they fall due. PCS must also comply with Principle 4 (Financial Prudence) of the Authority's Principles for Businesses, which requires PCS to maintain adequate financial resources.
11. On 20 June 2007, PCS went into administration.
12. On 24 August 2007, PCS filed at Companies House a Statement of Affairs as at 20 August 2007, which stated that the estimated total deficiency to creditors was £1,087,454.
13. On 14 March 2008, PCS moved from administration to creditors' voluntary liquidation.
14. PCS's liquidators have been asked by the Authority to apply to cancel PCS's Part 4A permission, but they have declined to do so.

## **FAILINGS**

15. From the facts and matters described above, the Authority, having regard to its operational objectives, has reached the following conclusions:
  - being unable to meet its liabilities as they have fallen due, PCS is failing to comply with the Authority Rule IPRU-INV 2.2.1R, and PCS is failing to meet the requirements of Principle 4 (Financial Prudence) of the Principles; and
  - PCS is also failing to satisfy the Threshold Conditions in that, in the opinion of the Authority, PCS's resources are not appropriate in relation to the regulated activities in PCS's Part 4A permission. Therefore, PCS is failing to satisfy the appropriate resources Threshold Condition set out in paragraph 2D of Schedule 6 to the Act.

## **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 PCS 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 PCS 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, PCS 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 Rule**

6. 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**

7. 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)**

8. 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.
9. 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.
10. 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**

11. The Authority's policy in relation to exercising its powers is set out in EG, the relevant provisions of which are summarised below.
12. 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**

13. 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.
14. 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.