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**FINAL NOTICE**

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To: **Mr Alistair Curren**

Individual  
reference number: **AMC00033**

Of: **156 Main Street  
Barrhead  
Glasgow  
G78 1SG**

Date: **14 April 2011**

**TAKE NOTICE: The Financial Services Authority of 25, The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives Mr Alistair Curren final notice that it has taken the following action:**

**1. THE ACTION**

1.1. The FSA gave Mr Curren a Decision Notice dated 24 February 2010 which notified him that:

- (1) pursuant to section 66 of the Financial Services and Markets Act 2000 (“the Act”) the FSA had decided to impose a financial penalty of £100,000 on him;
- (2) pursuant to section 63 of the Act the FSA had decided to withdraw the approval given to him under section 59 of the Act; and
- (3) pursuant to section 56 of the Act the FSA had decided to make an order prohibiting him from performing any function in relation to any regulated activity carried on by an authorised or exempt person or exempt professional firm (“the Prohibition Order”).

1.2. On 23 March 2010, Mr Curren referred the decision to the Financial Services and Markets Tribunal, which is now the Tax and Chancery Chamber of the Upper

Tribunal (“the Tribunal”). The Tribunal, in a written decision dated 21 March 2011, determined that:

- (1) the Prohibition Order should be imposed on Mr Curren;
- (2) the approval given to Mr Curren under section 59 of the Act should be withdrawn; and
- (3) a financial penalty of £100,000 should be imposed on Mr Curren.

1.3. With effect from 14 April 2011, the FSA hereby imposes a financial penalty of £100,000 on Mr Curren, withdraws his individual approval, and makes the Prohibition Order.

## **2. REASONS FOR THE ACTION**

2.1. Mr Curren, while performing significant influence functions at B-Assured Financial Services Limited (“B-Assured”):

- (1) submitted mortgage applications to lenders on behalf of his customers in circumstances where he knew that they contained false or misleading information;
- (2) failed to declare as income to Her Majesty’s Revenue and Customs incentive payments received by him from a company that he used to arrange solicitors for his mortgage clients;
- (3) failed to ensure that B-Assured complied with an FSA requirement imposed on it as a condition of its authorisation that Mr Curren be supervised by an appointed locum for a period of six months;
- (4) failed to ensure that B-Assured complied with a notice served on it by the FSA pursuant to section 166 of the Act requiring it to provide the FSA with a report prepared by a skilled person; and
- (5) failed to perform the controlled function of CF10 (Compliance) and to take other reasonable steps to ensure that in recommending regulated mortgage contracts B-Assured complied with the relevant requirements and standards of the regulatory system, as a result of which its customers were exposed to the risk of receiving unsuitable mortgage advice.

2.2 Mr Curren represented that his failings were due to incompetence, overwork and forgetfulness, arguments which were dismissed by the Tribunal. The Tribunal’s conclusions include the following passage:

*“...It is impossible to believe that he was not aware of the importance of complying with regulatory requirements, or that he did not understand the reasons for their imposition. He had no plausible explanation of his failure to secure Mr Hunter’s supervision, rejecting as we do his claim that it was attributable to forgetfulness, or his failure to obtain a skilled person’s report or declare the whole of his income for tax purposes. We are satisfied his failures*

*were deliberate. He agreed that he was aware that mortgage fraud was rife, but made the wholly incredible claim that it had not occurred to him that his clients might make untruthful statements. His putting forward his clients' implausible and inconsistent claims of high incomes cannot be reconciled with even gross incompetence". Paragraph 24.*

2.3 The Tribunal also stated:

*"Even were we to be persuaded that Mr Curren was no more than incompetent, the cumulative effect of these failings is such that we are satisfied that the only possible responsible course the Authority could have adopted was to withdraw his approvals and prohibit him from carrying on any controlled function. His inability, if it is that, to respect regulatory requirements, not merely in their detail but at all, makes it an inevitable conclusion that he is not fit and proper to be an approved person. It was plain to us that Mr Curren is either incapable of understanding, even in the most general terms, the duties of an approved person carrying on controlled functions or, which we think is more probable, does have some understanding of the relevant requirements but chooses to ignore them. Whichever of those is the correct view, we have concluded that nothing short of withdrawal of all Mr Curren's approvals and his prohibition would represent adequate protection for the public." Paragraph 25.*

2.4 The Tribunal recognised the serious impact on lenders and the financial system of the involvement of mortgage intermediaries in the submission of false and misleading mortgage applications. It stated:

*"The submission to lending institutions of dishonest mortgage applications is, in our view, a very serious matter. Persons in Mr Curren's position earn commission in return for carrying out enquiries into the veracity of what is said in the application, and lending institutions should be able to rely with confidence on their having done so." Paragraph 34.*

### **3. IMPORTANT**

3.1 This Final Notice is given in accordance with section 390 of the Act.

#### **Manner of and time for payment**

3.2 The financial penalty of £100,000 must be paid in full by Mr Curren to the FSA by no later than 5 May 2011, 21 days from the date of this Final Notice.

#### **If the financial penalty is not paid**

3.3 If all or any of the financial penalty is outstanding on 5 May 2011, the FSA may recover the outstanding amount as a debt owed by Mr Curren and due to the FSA.

#### **Publicity**

- 3.4 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 FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to Mr Curren or prejudicial to the interests of consumers.
- 3.5 The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

**FSA contacts**

- 3.6 For more information concerning this matter generally, please contact Chris Walmsley at the FSA (Tel: 020 7066 5894 / Fax: 020 7066 5895).

**Tom Spender**  
**Head of Department**  
**FSA Enforcement and Financial Crime Division**