

**FINAL NOTICE DATED 29 February 2008**

**B & CO ("B&Co") AND MR A**

**SUMMARY OF THE MATTER TO WHICH THE NOTICE RELATES**

**Date of issue: 29/02/08**

*On this occasion the FSA has decided not to publish the names of the firm and individual concerned in this notice, as the FSA considers such publication would, in the opinion of the FSA, be unfair or prejudicial to the interests of the firm and individual concerned.*

On 11 October 2007 the FSA refused an application made by B&CO, under section 60 of the Financial Services and Markets Act 2000 ("the Act"), for the approval of Mr A to perform the controlled functions of CF10 (Compliance Oversight) and CF11 (Money Laundering Reporting). The FSA approved Mr A to perform the functions of CF1 (Director) and CF8 (Apportionment and Oversight). This application for approval was made as part of the application for authorisation by B&Co under section 40 of the Act

The FSA was not satisfied that Mr A is a fit and proper person to perform the controlled functions of CF10 and CF11 (section 61(1) of the Act), as he failed:

- to demonstrate a readiness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standard in relation to CF10 and CF11 and;
- to demonstrate through experience and training that he is able, or will be able if approved, to perform those controlled functions.

Mr A is an investment adviser with approximately 10 years experience in the financial services. Mr A wholly owns B&Co and is the firm's only investment adviser.

In 2005 Mr A's engagement with a previous employer was terminated due to concerns over the quality of mortgage business he had submitted to two separate lenders and his approach to compliance issues.

Mr A had certified documentation containing information which was later established to be false. Also a significant number of his mortgage cases (61% of 46 cases completed within a period of nine months) were in arrears. This conduct led to the removal of Mr A from the panel of mortgage intermediaries of both lenders and the termination of his employment.

Following the initial issue of a warning notice recommending the refusal of Mr A's application for approval and the consequent refusal of the application from B&Co, Mr A made representations to the FSA. He acknowledged the seriousness of his past conduct and took full responsibility for his actions. He admitted that he did not have a complete grasp of his compliance obligations but pledged to continue his education and employ others to assist him.

He also proposed to implement robust systems and controls to ensure that the types of issues that led to the termination of his contract did not occur again.

The FSA recognised that there were no concerns about Mr A's honesty and integrity and were satisfied that Mr A was fit and proper to perform the controlled functions CF1 and CF8. However, Mr A had not provided sufficient evidence to persuade the FSA that, since the relatively recent events which resulted in the termination of his previous employment, he had all the skills necessary to carry out satisfactorily the functions associated with CF10 and CF11. For that reason, the FSA issued a Decision Notice to Mr A refusing his application to perform the controlled functions CF10 and CF11. However, it accepted that if a suitably qualified individual were to carry out those functions, the firm's application for authorisation could be approved.

As a consequence of the above, the FSA decided to approve an application made by B&Co ("the Application") under section 40 of the Act for Part IV permission to carry on the regulated activities of;

- a) Advising on investments
- b) Arranging deals in investments,
- c) Making arrangements (designated investment business),
- d) Advising on regulated mortgage contracts
- e) Arranging regulated mortgage contracts
- f) Making arrangements (regulated mortgage contracts)
- g) Agreeing to carry on a regulated activity

The FSA concluded that it is satisfied that B&Co would continue to satisfy the Threshold Conditions set out in schedule 6 of the Act ("the Threshold Conditions") on the assumption that B&Co employed a suitably qualified person to perform the controlled functions of compliance oversight and money laundering reporting officer.

Following the appointment of a suitably qualified person B&Co is now authorised.

Mr A did not refer the refusal of his application for approval to carry out the controlled functions of CF10 and CF11 to the Financial Services and Markets Tribunal