

SUMMARY OF CONTENTS OF FINAL NOTICE

Date of Issue: 19 January 2004

Mr John Edward Nixon and Bowland Group Limited (BGL)

The FSA has refused an application for Part IV Permission from BGL because it does not satisfy Threshold Condition 4 (adequate resources) and Threshold Condition 5 (suitability). The FSA has also refused BGL's application for the approval of Mr Nixon to perform the controlled functions of Director, Chief Executive, Apportionment and Oversight, Compliance Oversight, Money Laundering Reporting Officer and Investment Adviser functions with BGL. This is because the FSA was not satisfied that he was a fit and proper person to perform these functions. Mr Nixon was the only candidate to apply to perform controlled functions with BGL.

Mr Nixon was the chairman, majority shareholder and executive director of a previously authorised firm which was put into insolvent liquidation. That firm's permission was revoked following an application by its liquidators to cancel its authorised status. Its liabilities included a Financial Ombudsman Service (FOS) award relating to unsuitable advice given by Mr Nixon on behalf of the firm and money owed to clients because of a fraud perpetrated by another adviser at the firm. None of these liabilities proved to be covered by professional indemnity insurance (PII) as the underwriters voided the policy. Although disclosure of the disciplinary action taken by the Personal Investment Authority (PIA) had been made in the year following that action, the underwriters maintain that, as a material fact, this should have been disclosed in the annual renewal forms for the firm's PII cover in each of the subsequent years. As a consequence, investors who were affected by the fraud and the investor whose complaint about advice given by Mr Nixon was upheld by FOS, stand to lose significant amounts of money.

PIA took disciplinary action in 1997 because the firm had failed to organise and control its internal affairs, have adequate training and supervision procedures in place, and have well-defined compliance procedures. The FSA considers that both the amount of the PIA fine (£10,000), and costs and the seriousness of the failings which gave rise to them, clearly demonstrate that PIA had significant concerns over how the firm was being run. The disciplinary action was a significant event in the regulatory history of the firm. The fact that Mr Nixon failed to ensure that the PIA action was disclosed to the firm's PII underwriters in its renewal applications demonstrates a failure to satisfy the standards the FSA expects of an approved person carrying out controlled functions in the management of an authorised firm.

The FSA considers that Mr Nixon's failings show that he did not act with the due skill, care and diligence the FSA expects of an approved person performing the governing and significant management controlled functions. Given his roles at the previously authorised firm and his own failure to deal professionally and competently with the firm's affairs, Mr Nixon must take full responsibility for the failure of that firm.

In BGL's applications, Mr Nixon delayed disclosing to the FSA any details about the FOS award. Mr Nixon did not deal with the FSA in an open and co-operative way by disclosing appropriately and in a timely manner information of which the FSA would reasonably expect to receive notice.

Therefore the FSA is not satisfied that Mr Nixon is a fit and proper person to perform the Director, Chief Executive, Apportionment and Oversight, Compliance Oversight, Money Laundering Reporting Officer and Investment Adviser functions with BGL. In turn, this refused application means the FSA cannot ensure that BGL satisfies Threshold Condition 4 (adequate resources), and because of BGL's connection with Mr Nixon, the FSA cannot ensure that BGL will satisfy Threshold Condition 5 (suitability).

Mr Nixon and Bowland Group Limited did not refer the matter to the independent Financial Services and Markets Tribunal.