

To: **Vital Financial Services Ltd (“the Firm”)**

Of: **C/O The Official Receiver 1st Floor Boulton House 17-21 Chorlton Street
Manchester M1 3HY (formerly of PO BOX 4012 Byron House 10
Kennedy Street Manchester M60 1XY)**

28 June 2002

FINAL NOTICE

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“FSA”) gives you final notice of the cancellation of the Firm’s Part IV permission and the withdrawal of the Firm’s status as an authorised person

1. GENERAL

1.1. The Firm is an authorised person within the meaning of the Financial Services and Markets Act 2000 ("the Act") and was immediately before 1 December 2001, regulated by the Personal Investment Authority (“PIA”).

2. THE FINANCIAL SERVICES AND MARKETS ACT INTERIM TRIBUNAL

2.1. On 27 November 2001 the Disciplinary Committee of PIA (“the Committee”) issued the Firm with a Notice of Intended Order (“the Intended Order”) providing for the expulsion of the Firm from membership of PIA. In reaching its decision the Committee concluded that the Firm had ceased to be fit and proper due to its failure to maintain adequate financial resources.

2.2. From 1 December 2001 the PIA disciplinary proceedings taken against the Firm represented incomplete disciplinary proceedings within the meaning of paragraphs (2) and (3) of Article 56 of The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001 (“the PCP Order”) and were referred by FSA to the Financial Services and Markets Act Interim Tribunal (“the Interim Tribunal”).

- 2.3. The Chairman of the Interim Tribunal determined the proceedings by way of an Order dated 19 March 2002 (“the Order”). The Order provided that:
- (1) FSA should exercise its powers under section 205 of the Act to issue a public statement; and
 - (2) FSA should exercise its powers under section 45(2) of the Act to cancel the Firm’s Part IV permission and thereafter direct that the Firm’s authorised status be withdrawn, pursuant to section 33(2) of the Act; and
 - (3) The Chairman remits the matter to FSA directing it to take the action referred to in paragraphs 1 and 2 above.

3. SANCTIONS

- 3.1. In accordance with paragraphs 2 and 3 of the Order referred to at paragraph 2.3 above the FSA hereby:
- (1) Cancels the Firm’s Part IV permission in accordance with section 45(2) of the Financial Services and Markets Act 2000 ("the Act"); and
 - (2) Directs that the Firm’s authorised status be withdrawn pursuant to section 33(2) of the Act.
- 3.2. In accordance with Article 61(1) of the PCP Order, sections 53, 54 and 55 of the Act do not apply to the FSA’s exercise of its powers under section 45 of the Act.

4. FACTS AND MATTERS RELIED ON

PIA Rules and Requirements

- 4.1. By virtue of PIA Rule 1.3.1(6)(a) a member of PIA became liable to discipline where it had failed to comply with PIA Rule 1.3.1(2). PIA Rule 1.3.1(2)(a) provides that a member must obey the Rules of PIA.
- 4.2. Chapter 13 of the FSA’s Interim Prudential sourcebook: Investment businesses (IPRU) outlines financial resource requirements for personal investment firms.
- (1) Rule 13.1.2 provides:

“A firm must:
 - (1) *have and maintain at all times financial resources of the kinds and amounts specified in, and calculated in accordance with, the rules of this chapter; and*
 - (2) *be able to meet its liabilities as they fall due.”*

The Firm is a Category B3 firm with between 1 to 25 financial advisers.

- (2) Rule 13.9.1 provides:

“A Category B3 firm must meet:

(1) *financial Resources Test 1 (the Own funds Test) calculated in accordance with section 13.10; ...”*

(3) Rule 13.10.1 provides:

“A Category B3 firm’s own funds must at all times be at least £10,000

- 4.3. As set out above at paragraph 2.1, on 27 November 2001 the Committee issued the Firm with an Intended Order providing for the Firm’s expulsion from membership of PIA.
- 4.4. In reaching the decision set out in the Intended Order, the Committee concluded that the Firm, in breach of PIA Rules 1.3.2(1) and 13.10.1 had failed to maintain at all times, own funds of at least £10,000 and had as result ceased to be fit and proper.
- 4.5. At no time following the issue of the Intended Order has the Firm been able to demonstrate own funds of £10,000. Furthermore on 19 December 2001 a winding up order was made against the Firm as a result of its failure to meet its liabilities as they fall due.

FSA Powers and Guidance

- 4.6. In imposing the sanctions detailed at paragraph 3 above, FSA is exercising its powers under sections 45 and 33 respectively of the Act.
- 4.7. The FSA’s policy in relation to its powers to cancel Part IV permission and withdraw authorisation is set out in Chapter 5 of the Enforcement Manual which forms part of the FSA Handbook (“ENF”).
- 4.8. The policy guidance detailed in this chapter makes it clear that the FSA will consider cancelling a firm’s Part IV permission in two main circumstances:
- (1) where the FSA has very serious concerns about a firm, or the way its business is or has been conducted;
- (2) where the firm’s regulated activities have come to an end and it has not applied for cancellation of its Part IV permission (see ENF 5.5.1G).
- 4.9. Examples of the circumstances detailed above, include, where it appears to the FSA that the Firm is failing, or is likely to fail to satisfy the threshold conditions in relation to one or more, or all, of the regulated activities for which the Firm concerned has a Part IV permission (see ENF 3.3.2G & 5.5.2G).
- 4.10. By reason of the facts and matters summarised in paragraphs 4.1 to 4.5 above the FSA is satisfied that serious concerns exist in relation to the Firm. In this respect the FSA is satisfied that the Firm is unable to comply with threshold condition 4: Adequate resources, in that the Firm has failed to maintain adequate resources in relation to the regulated activities which it carried on and that in the circumstances the Firm’s Part IV permission should be cancelled.

- 4.11. Where the FSA has cancelled a firm's Part IV permission the FSA is required to go on to give a direction withdrawing the firm's authorisation (see ENF 5.3.2G).

5. DATE OF IMPLEMENTATION

- 5.1. Cancellation of the Firm's Part IV permission and withdrawal of the Firm's authorised status shall take effect on 10 July 2002.

6. PUBLICATION

- 6.1. In accordance with paragraph 1 of the Order and section 205 of the Act FSA will publish a public statement in relation to the matters detailed in this notice:
- 6.2. In accordance with Article 61(5) of the PCP Order, sections 207 and 208 of the Act do not apply to the FSA's exercise of its powers under section 205 of the Act.
- 6.3. 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. The information may be published in such manner 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 you or prejudicial to the interests of consumers.
- 6.4. The terms of the public statement are set out at Appendix 1. The public statement will be published on the FSA register on the 10 July 2002.

7. YOUR RIGHTS

- 7.1. This notice is sent to you in accordance with sections 390(3) and 390(7) of the Act.

8. FSA CONTACT

- 8.1. For more information concerning this matter generally, please contact Philip Cooper at the FSA (direct line: 020 7676 1496 /fax: 020 7676 1497).

Julia Dunn

Head of Retail Sales, Enforcement Division
28 June 2002