
FIRST SUPERVISORY NOTICE

To: **Exetra (UK) Limited**

Of: **268 Bath Road
Slough
Berkshire
SL1 4DX**

FSA
Reference
Number: **456009**

Date: **10 July 2009**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the "FSA") has taken the following action

1. PROPOSED ACTION

1.1 For the reasons listed below and pursuant to section 45 of the Financial Services and Markets Act 2000 (the "Act"), the FSA has decided to vary the permission granted to Exetra (UK) Limited ("Exetra"), pursuant to Part IV of the Act ("Exetra's permission") by removing all regulated activities with immediate effect. Accordingly, Exetra's permission no longer includes the following regulated activities:

- (a) advising on investments (excluding pension transfers and pension opt outs);
- (b) advising on regulated mortgage contracts;
- (c) agreeing to carry on a regulated activity;
- (d) arranging (bringing about) deals in investments;
- (e) arranging (bringing about) regulated mortgage contracts;
- (f) making arrangements with a view to transactions in investments; and
- (g) making arrangements with a view to regulated mortgage contracts.

1.2 The FSA has further decided to vary Exetra's permission by including the following requirements, namely that within 14 days, Exetra must:

- (i) advise in writing all clients for its regulated activities that Exetra is no longer permitted by the FSA to carry on regulated activities; and
- (ii) provide the FSA with a copy of the written advice sent to all clients for Exetra's regulated activities pursuant to (i) above, together with a list of all clients to whom such advice has been sent.

2. REASONS FOR ACTION

Summary

- 2.1 Exetra is failing to conduct its business with integrity and in compliance with proper standards in that its sole director and controller, Mr Vijay Kumar Sharma ("Mr Sharma") is not considered by the FSA to be a fit and proper person to perform any controlled function, as he is failing to meet the criteria for fitness and propriety as set out in the Fit and Proper Test ("FIT") for Approved Persons in the FSA Handbook of Rules and Guidance (the "Handbook").
- 2.2 Accordingly, on the basis of the facts and matters described below, Exetra is failing to satisfy the threshold conditions set out in Part 1 of Schedule 6 to the Act (the "Threshold Conditions"). Specifically, Exetra is failing to satisfy Threshold Condition 5 (Suitability) as it no longer satisfies the FSA that it is fit and proper to conduct regulated activities because it is failing to conduct its business with integrity and in compliance with proper standards.
- 2.3 The FSA also considers, on the basis of those facts and matters, that it is necessary, in order to protect the interests of consumers, for the action specified above to take immediate effect. Mr Sharma's history of misconduct, which extends to the misappropriation of funds and provision of misleading information, causes the FSA to have serious concerns that Mr Sharma may treat customers of Exetra similarly in future.

Relevant statutory provisions

- 2.4 The FSA's regulatory objectives established in section 2(2) of the Act include the protection of consumers.
- 2.5 The FSA is authorised by section 45 of the Act to exercise the following powers:
 - to vary an authorised person's permission where it appears to the FSA that such person is failing to satisfy the Threshold Conditions;
 - to vary such a permission by removing a regulated activity from those for which the permission is given, and
 - to include any provision in the permission as varied that could be included if a fresh permission were being given in response to an application under section 40 of the Act, including the imposition pursuant to section 43 of the Act of such requirements as the FSA considers appropriate.

2.6 Section 53(3) of the Act allows such a variation to take effect immediately if the FSA reasonably considers that it is necessary for the variation to take effect immediately.

2.7 Paragraph 5 of Schedule 6 to the Act sets out Threshold Condition 5 which provides that:

“The person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including –

(a) his connection with any person; and

(c) the need to ensure that his affairs are conducted soundly and prudently.”

Guidance concerning the relevant Threshold Condition

2.8 Guidance on the Threshold Conditions is set out in the part of the Handbook entitled Threshold Conditions (“COND”).

COND 2.5 – Threshold Condition 5: Suitability (paragraph 5, Schedule 6 to the Act)

2.9 COND 2.5.1UK reproduces the relevant statutory provision that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances, including, among other things, the need to ensure that his affairs are conducted soundly and prudently.

2.10 COND 2.5.4G(2)(a) requires the FSA, when forming its opinion as to whether an authorised person is conducting its affairs soundly and prudently, to have regard to relevant matters, including whether it conducts its business with integrity and in compliance with proper standards.

2.11 COND 2.5.4G(3) requires the FSA only to take into account relevant matters which are significant in the context of the suitability of the firm.

2.12 COND 2.5.6G provides guidance as to matters to which the FSA may have regard when forming its opinion as to whether an authorised person is conducting its business with integrity and in compliance with proper standards. The guidance states that the scope of the matters which the FSA will consider is not limited to the examples specified.

Other relevant regulatory provisions

2.13 The FSA's policy in relation to its enforcement powers is set out in the Enforcement Guide (“EG”) certain provisions of which are summarised below.

2.14 EG 8.1(1) provides that the FSA may use its own initiative power to vary or cancel the permission of an authorised firm under section 45 of the Act, where a firm is failing or is likely to fail to satisfy the Threshold Conditions.

Varying a firm’s Part IV permission on the FSA’s own initiative

- 2.15 EG 8.1B provides that the FSA will have regard to its regulatory objectives and the range of regulatory tools that are available to it, when it considers how it should deal with a concern about a firm.
- 2.16 EG 8.3 provides that the FSA will exercise its formal powers under section 45 of the Act, where the FSA considers it is appropriate to ensure a firm meets its regulatory requirements. EG 8.3(1) specifies that the FSA may consider it appropriate to exercise its powers where it has serious concerns about a firm or about the way its business is being or has been conducted.
- 2.17 EG 8.5 provides that the circumstances in which the FSA will consider exercising its power include where the FSA has serious concerns that the authorised person has breached requirements imposed on it by or under the Act (including Principles and rules) and the breaches are material in number or individual seriousness.
- 2.18 EG 8.9 includes among the factors which will determine whether the urgent exercise of the FSA's own-initiative power is an appropriate response to serious concerns, the extent of any loss, or risk of loss, or other adverse effect on consumers and the steps the authorised person has taken or is taking to address the issue.

Facts and matters relied on

- 2.19 Exetra was granted authorisation by the FSA on 14 March 2007 to carry on designated investment business and mortgage and insurance mediation. Exetra varied its permission on 9 June 2009, removing all investment activities such that it is now permitted to conduct mortgage and insurance mediation only.
- 2.20 Mr Sharma is the sole director and controller of Exetra and was approved by the FSA on 24 April 2007 to perform controlled functions in relation to the regulated activities carried on by Exetra. Mr Sharma is the only approved person in relation to Exetra.
- 2.21 On 30 April 2001, Mr Sharma was given a police caution for criminal damage.
- 2.22 On 20 March 2002, whilst an employee of a bank, Mr Sharma was suspended pending investigation of the authenticity of customer signatures on sales documentation drafted by him. On 6 April 2009, Mr Sharma admitted to the FSA that he had falsified the signatures of two customers on sales documentation.
- 2.23 On 26 September 2006, whilst an employee of an FSA-authorized firm (the "Previous Employer"), Mr Sharma was suspended pending investigation of unauthorised periods of absence from work between and including 29 August 2006 and 28 September 2006. On 7 March 2009, Mr Sharma provided an explanation to the FSA for the periods of unauthorised absence which conflicted with the explanation given by Mr Sharma to the Previous Employer, and which the Previous Employer provided to the FSA.
- 2.24 On 8 November 2006, subsequent to the termination of his employment by the Previous Employer, Mr Sharma held himself out to be a representative of a fictitious entity whose was highly similar to that of the Previous Employer, without authorisation from the Previous Employer.

- 2.25 On 22 November 2006, subsequent to the termination of his employment by the Previous Employer, Mr Sharma cashed a cheque made payable to the Previous Employer, which he had received in error.
- 2.26 On 16 April 2007, Mr Sharma submitted to the FSA an application for approval to perform a controlled function under the approved persons regime, and failed to disclose to the FSA in that application the matters referred to at paragraphs 2.22 to 2.25 above.
- 2.27 On 11 May 2007, Mr Sharma acquired a controlling interest in Exetra, and failed to make an application to the FSA for prior approval of that controlling interest.
- 2.28 On 1 April 2008, Mr Sharma increased his controlling interest in Exetra, and failed to make an application to the FSA for prior approval of that increase in control.
- 2.29 On 14 January 2009, Mr Sharma submitted to the FSA an application for a Change in Controller and failed to disclose to the FSA in that application the matters referred to at 2.21 to 2.25 above.

Conclusions

- 2.30 The facts and matters described above lead the FSA, having regard to its regulatory objectives, which include the protection of consumers, to conclude that Exetra is failing to satisfy Threshold Condition 5 (Suitability) as it no longer satisfies the FSA that it is a fit and proper person having regard to all the circumstances, including its connection with Mr Sharma and the need to ensure that its affairs are conducted soundly and prudently.

3. DECISION MAKER

- 3.1 The decision which gave rise to the obligation to give this Supervisory Notice was made by the Chairman of the Regulatory Decisions Committee.

4. IMPORTANT

- 4.1 This Supervisory Notice is given to Exetra in accordance with section 53(4) of the Act and is given to Exetra at the address provided by it to the FSA for the service of notices. The following statutory rights are important.

The Tribunal

- 4.2 Exetra may refer this matter to the Financial Services and Markets Tribunal (the "Tribunal"). Under section 133 of the Act, Exetra has 28 days from the date on which it was sent this Supervisory Notice to refer the matter to the Tribunal or such other period as specified in the Tribunal Rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by Exetra and filed with a copy of this Notice. The Tribunal's address is: 15-19 Bedford Avenue, London WC1B 3AS (telephone: 020 7612 9700). The detailed procedures for making a reference to the Tribunal are contained in section 133 of the Act and the Tribunal Rules.

- 4.3 Exetra should note that the Tribunal Rules provide that at the same time as filing a reference notice with the Tribunal, Exetra must send a copy of the notice to the FSA. Any copy notice should be sent to Isabel Barnes at the FSA, Enforcement Division, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Representations

- 4.4 Exetra has the right to make written and oral representations to the FSA (whether or not it refers this matter to the Tribunal). If Exetra wishes to make written representations, it must do so by 13 August 2009 or such later date as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Lynn Cheesman, Regulatory Decisions Committee Professional Support Services. The Regulatory Decisions Committee Professional Support Services' address is: 25 The North Colonnade, Canary Wharf, London E14 5HS. If Exetra wishes to make oral representations, please inform us in writing of its intention to do so by 21 July 2009. If Exetra does not notify us by 21 July 2009, it will not, other than in exceptional circumstances, be able to make oral representations.

Confidentiality and publicity

- 4.5 Exetra should note that this Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining advice on its contents). Exetra should also note that section 391 of the Act requires the FSA when the Supervisory Notice takes effect, to publish such information about the matter as it considers appropriate.

FSA contacts

- 4.6 If Exetra has any questions regarding the procedures of the Regulatory Decisions Committee, it should contact either Lynn Cheesman (direct line: 020 7066 3192/fax: 020 7066 3193), or Jackie Noonan, RDC Professional Support Services (direct line: 020 7066 3074/fax: 020 7066 3075).
- 4.7 For more information concerning this matter generally, Exetra should contact Isabel Barnes at the FSA (direct line: 020 7066 1426 / fax: 020 7066 1427).

Tim Herrington
Chairman, Regulatory Decisions Committee