
FIRST SUPERVISORY NOTICE

To: **Peter Richard Hilder, trading as Savings Assured Mortgages**

Of: **Unit 5a, The Grange Business Park
Wick St. Lawrence Road
West Hewish
Weston-super-Mare
BS24 6RR**

Firm/ Individual
Reference: **314384/ PRH01131**

Dated: **1 August 2008**

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

1. 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 you, Peter Richard Hilder trading as Savings Assured Mortgages, pursuant to Part IV of the Act ("your Permission") by removing all regulated activities with immediate effect. Accordingly, your 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) arranging deals in investments;
- (d) arranging regulated mortgage contracts;
- (e) making arrangements with a view to regulated mortgage contracts;
- (f) making arrangements with a view to transactions in investments, and
- (g) agreeing to carry on a regulated activity.

1.2 The FSA has further decided to vary your Permission by including the following requirements, namely that within 14 days you must:

- (i) advise in writing all clients for your regulated activities that you are 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 your 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 The FSA has concluded, on the basis of the facts and matters described below, that your conduct has not met the requirements of the FSA's Principles for Businesses and that you are failing to satisfy the threshold conditions set out in Part 1 of Schedule 6 to the Act (the "Threshold Conditions") in that, in the opinion of the FSA, you are not a fit and proper person as you have failed to conduct your business in compliance with proper standards. Specifically, on 9 July 2008 you were charged with four offences of obtaining money transfers by deception. You subsequently pleaded guilty to these offences on 21 July at North Somerset Magistrates Court and are bailed to appear before Bristol Crown Court on 11 August 2008 for sentencing. You failed to notify the FSA of these criminal proceedings.
- 2.2 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.

Relevant Principles

- 2.3 Principle 1 requires a firm to conduct its business with integrity.
- 2.4 Principle 11 requires a firm to deal with its regulator in an open and cooperative way, and to disclose to the FSA appropriately anything relating to the firm of which the FSA would reasonably expect notice.

Relevant Rules

- 2.5 FSA Rules 15.3.1(1) and (3) in the Supervision Manual ("SUP"), which is part of the FSA Handbook, require that:

"a firm must notify the FSA immediately it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:

- (1) the firm failing to satisfy one or more of the threshold conditions; or
- (3) any matters which could affect the firm's ability to continue to provide adequate services to its customers and which could result in serious detriment to a customer of the firm."

2.6 SUP 15.3.15 R states that:

"A firm must notify the FSA immediately if:

- (4) the firm is prosecuted for, or convicted of, any offence involving fraud or dishonesty, or any penalties are imposed on it for tax evasion."

Relevant Statutory Provisions

2.7 The FSA's regulatory objectives, established in section 2(2) of the Act, include the protection of consumers.

2.8 By section 45 of the Act, the FSA is authorised:

- to vary an authorised person's permission, where it appears to the FSA that such person is failing to satisfy the threshold conditions or where it is desirable to exercise that power in order to protect the interests of consumers;
- to vary such 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.

2.9 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.

Relevant Regulatory Provisions

2.10 In exercising its power to vary a Part IV permission, the FSA must have regard to the relevant regulatory provisions and guidance, including the provisions and guidance contained in the FSA's Handbook of Rules and Guidance (the "Handbook"), and also, in particular, the Enforcement Guide ("EG"). The main considerations in relation to the action specified above are set out below.

EG 8 - The FSA's policy for exercising its own-initiative power to vary a Part IV permission

2.11 The FSA's policy in relation to exercising its power to vary a Part IV permission is set out in EG.

2.12 EG 8.1 provides that the FSA will have regard to its regulatory objectives and the range of regulatory tools that are available to it.

2.13 EG 8.2 provides that the FSA will take formal action affecting the conduct of a firm's commercial business only if that business is being conducted in such a way that the FSA judges it necessary to act in order to address the consequences of non-compliance with the Act, the Principles for Businesses and other rules.

- 2.14 EG 8.5 provides that the circumstances in which the FSA will consider exercising its power include where the FSA has serious concerns about a firm or about the way its business is being or has been conducted. EG 8.5 (1) (b) (i) specifies that the FSA will consider exercising its own-initiative power where a firm appears not to be a fit and proper person to carry on regulated activities because it has not conducted its business in compliance with high standards and has been involved in financial crime. EG 8.5 (1) (b) (iii) specifies that the FSA will consider exercising its own-initiative power where a firm has breached requirements imposed on it under the Act (including the Principles and the Rules), for example in respect of disclosure or notification requirements, and the breaches are material in number or individual seriousness.
- 2.15 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. In addition, in considering whether to exercise its urgent own-initiative powers, the FSA will also take into consideration the risk that the firm's business may be used or has been used to facilitate financial crime, including money laundering. Where it appears that the firm is being used for, or is itself involved in, financial crime and is failing to meet the threshold conditions, then the urgent use of the FSA's own-initiative powers is appropriate.

Guidance concerning the relevant Threshold Condition ("COND")

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

- 2.16 COND 2.5.1 D 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.
- 2.17 COND 2.5.4 G (2)(a) and (b) 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 and whether it has, or will have, competent and prudent management.
- 2.18 COND 2.5.4 G (3) requires the FSA only to take into account relevant matters which are significant in the context of the suitability of the firm.
- 2.19 COND 2.5.6 G permits the FSA, when forming its opinion as to whether an authorised person is conducting its business with integrity and in compliance with proper standards, to have regard to relevant matters, including whether:
- "(1) the firm has been open and co-operative in all its dealings with the FSA and is ready and willing to comply with the requirements and standards under the regulatory system";
 - "(4) the firm has contravened, among other things, the requirements of the regulatory system, which includes the threshold conditions and the FSA Principles and other rules".

Facts and matters relied on

- 2.20 You became authorised by the FSA as a sole trader on 30 November 2004 to carry on mortgage advisory business, and were permitted from 14 January 2005 to carry on insurance mediation business.
- 2.21 On 9 July 2008, you were charged with four offences of obtaining money transfers by deception. Each offence related to you falsely claiming to a mortgage lender that an individual was employed by you and received earnings in respect of that employment, for the purposes of obtaining a mortgage. In relation to all four offences, you dishonestly obtained, or attempted to obtain, money transfers from a mortgage lender which totalled £589,090. You subsequently pleaded guilty to all four offences on 21 July at North Somerset Magistrates Court and you are currently bailed to appear before Bristol Crown Court on 11 August 2008 for sentencing.
- 2.22 You failed to notify the FSA of these criminal proceedings against you at any stage, despite there being a clear requirement to do so.

Conclusions

- 2.23 The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, to the following conclusions:
- you have been charged with, and pleaded guilty to, four offences involving dishonesty. These offences constitute breaches of Principle 1 and relate directly to the regulated activities for which you have permission;
 - you failed to notify the FSA that you had become the subject of the criminal proceedings described above, in breach of SUP 15.3.1R (1) and (3), SUP 15.3.15 R and Principle 11;
 - given the nature of the offences and your failure to notify the FSA of them, the FSA considers that you are failing to satisfy Threshold Condition 5 (Suitability);
 - the above failings present a risk to the FSA's consumer protection objective. Appropriate action is necessary to help provide protection to consumers;
 - the risk of adverse effect on consumers arising from your failings, which are material breaches of requirements imposed upon you by the FSA's rules, causes the FSA to have very serious concerns about you such that the exercise of the FSA's own-initiative power to vary your permission with immediate effect is an appropriate response to those concerns; and
 - specifically, the variation of your permission should take immediate effect to address the FSA's serious concerns detailed above.

3. DECISION MAKER

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

4. IMPORTANT

- 4.1 This Supervisory Notice is given to you in accordance with section 53(4) of the Act. The following statutory rights are important.

The Tribunal

- 4.2 You may refer this matter to the Financial Services and Markets Tribunal ("the Tribunal"). Under section 133 of the Act, you have 28 days from the date you were 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 you 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 You should note that the Tribunal Rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the notice to the FSA. Any copy notice should be sent to Lehong Mac at the FSA, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Representations

- 4.4 You have the right to make written and oral representations to the FSA. If you wish to make written representations you must do so by 4 September 2008 or such later date as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Clare Massey, 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 you wish to make oral representations, please inform us in writing of your intention to do so by 13 August 2008. If you do not notify us by 13 August you will not, other than in exceptional circumstances, be able to make oral representations.

Confidentiality and publicity

- 4.5 You 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). You 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 you have any questions regarding the procedures of the Regulatory Decisions Committee, you should contact either Clare Massey (direct line: 020 7066 3194 /fax: 020 7066 3195) or Jackie Noonan, RDC Professional Support Services (direct line: 020 7066 3074/fax: 020 7066 1015).

4.7 For more information concerning this matter generally, you should contact Lehong Mac at the FSA (direct line: 020 7066 5742/fax: 020 7066 5743).

Elizabeth Filkin
Deputy Chairman, Regulatory Decisions Committee