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**FIRST SUPERVISORY NOTICE**

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**To: London and Scottish Bank PLC (FRN 204502) (“the Firm”)**

**Of: 201 Deansgate, Manchester, Lancashire M3 3NW**

**Date: 30 November 2008**

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

**ACTION**

1. For the reasons listed below and pursuant to sections 43(1), 45(1)(a) and (c), 45(4) and 53(3) of the Financial Services and Markets Act 2000 (“the Act”), the FSA has imposed requirements on the permission granted to the Firm under Part IV of the Act (the “permission”).
2. The Firm is required to refrain from accepting any deposits into:
  - (a) any existing deposit accounts; or
  - (b) any new deposit accounts.

**EFFECTIVE DATE**

3. The requirement contained in this Notice take effect immediately.

**REASONS FOR ACTION**

**Summary**

4. The FSA has concluded that the Firm is failing to satisfy Threshold Condition 4 (adequate resources) in Part 1 of Schedule 6 to the Act in that, in the opinion of the FSA, the Firm’s capital resources are not adequate in relation to the regulated activities which the Firm carries on.
5. Further, it appears to the FSA to be desirable, in the interests of the Firm’s actual and potential consumers, to impose the requirement on the Firm’s permission:
  - (a) in view of the Firm’s capital resources position;
  - (b) as in the opinion of the FSA, there is no realistic prospect of the Firm’s capital resources position improving sufficiently and within a reasonable period.

### **Relevant Statutory provisions**

6. The FSA's regulatory objectives, established in section 2(2) of the Act, include the protection of consumers.
7. Section 45(1)(a) of the Act confers a power on the FSA to vary, on its own initiative, a permission granted under Part IV of the Act, on the grounds that an authorised person is failing or is likely to fail, to satisfy the threshold conditions.
8. Section 45(1)(c) of the Act confers a power on the FSA to vary, on its own initiative, a permission granted under Part IV of the Act, on the grounds that it is desirable to do so in order to protect the interests of consumers or potential consumers.
9. By section 45(4) of the Act, the FSA's power to vary a Part IV permission extends to including any provision in the permission as varied that could be included if a fresh permission were being given in response to an application for authorisation.
10. By section 43(1) of the Act, a Part IV permission may include such requirements as the FSA considers appropriate, by section 43(2)(b) a requirement may be imposed to require a firm to refrain from taking specified action.
11. By section 53(3) of the Act, a variation may be expressed to take effect immediately, or on a specified date, only if the FSA, having regard to the ground on which it is exercising its own-initiative power, reasonably considers that it is necessary for the variation to take effect immediately, or on a particular date.

### **Relevant regulatory provisions**

12. In deciding to take the action described above in reliance upon the facts and matters described below, the FSA has had regard to Guidance published in the Enforcement Guide ("EG") and the Supervision Manual ("SUP"), in particular at EG 8 and SUP 7.3.
13. 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 when it considers how it should deal with a concern about a firm. It will also have regard to:
  - (a) the responsibilities of a firm's management to deal with concerns about the firm or about the way its business is being or has been run; and
  - (b) the principle that a restriction imposed on a firm should be proportionate to the objectives the FSA is seeking to achieve.
14. EG 8.2 provides that the FSA will take formal action affecting the conduct of a firm's commercial business 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 and other rules.

15. EG 8.5 provides that the circumstances in which the FSA will consider exercising its power include where the FSA has serious concerns about the firm, or about the way its business is being or has been conducted.
16. EG 8.7 provides that the FSA will consider exercising its own-initiative power as a matter of urgency where the information available to it indicates serious concerns about the firm or its business that need to be addressed immediately, and circumstances indicate that it is appropriate to use statutory powers immediately to ensure the firm addresses these concerns.
17. EG 8.9 provides a non-exhaustive list of factors which will determine whether the urgent exercise of the FSA's own-initiative power is an appropriate response to serious concerns. These include the likelihood of the firm's assets being dissipated without the FSA's intervention, the extent of any loss or risk of loss or other adverse effect on consumers and the extent to which customer assets appear to be at risk.
18. SUP 7.3.4G provides that if the FSA considers that a delay would be prejudicial to the interests of consumers, the FSA may need to act immediately to vary a firm's Part IV permission with immediate effect.

#### **Facts and matters relied upon**

19. The FSA considers that the Firm does not currently meet Threshold Condition 4 and the Firm has not been able to provide a credible plan that would allow the Firm to continue in business without breaching its Pillar 1 capital requirements.
20. The FSA does not believe that there is any prospect of a viable purchaser being found on a timely basis to acquire the business of the Firm or of the Firm obtaining additional sources of finance which would enable the Firm to return to compliance with Threshold Condition 4 within a reasonable period.
21. The FSA believes it is appropriate to impose the requirement with immediate effect to protect the interests of depositors.

#### **Conclusion**

22. The facts and matters described above lead the FSA, having regard to its regulatory objectives, to the conclusion that it is necessary, in the interests of the Firm's actual and potential consumers to impose the requirement contained in this Notice.
23. In view of the fact that the Firm's financial position continues to deteriorate the FSA considers that this requirement should take immediate effect.

#### **PUBLICATION**

24. You should note that the FSA is required by section 391(5)-(6) of the Act to publish such information about the matter to which this Notice relates as it

considers appropriate and accordingly the FSA proposes to publish this Notice in full on 1 December 2008.

## **DECISION MAKER**

25. The decision to give this notice was made by the Chairman of the Regulatory Decisions Committee.

## **IMPORTANT**

26. This Notice is given to you in accordance with section 53(4) of the Act.

## **The Tribunal**

27. 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.
28. 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 Eric Engstrom at the FSA, 25 The North Colonnade, Canary Wharf, London E14 5HS.

## **Representations**

29. You have the right to make written and oral representations to the FSA (whether or not you refer this matter to the Tribunal). If you wish to make written representations you must do so within 28 days or such later date as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Mrs Jackie Noonan, 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 12 December 2008. If you do not notify us by 12 December 2008, you will not, other than in exceptional circumstances, be able to make oral representations.

**FSA contacts**

30. For more information concerning this matter generally, you should contact Eric Engstrom at the FSA (direct line: 020 7066 0298/ fax: 020 7066 0299).

**Tim Herrington**

**Chairman, Regulatory Decisions Committee**