
FIRST SUPERVISORY NOTICE

To: **PK Property Services Limited**

Of: **Unit 4
Peterley Business Centre
472 Hackney Road
London
E2 9EQ**

Dated: **6 December 2007**

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 PK Property Services Limited ("PK"), pursuant to Part IV of the Act ("PK's permission") by removing all regulated activities with immediate effect. Accordingly, PK's permission no longer includes the following regulated activities:

- (a) advising on investments (except on Pension Transfers and Pension Opt Outs);
- (b) arranging (bringing about) deals in investments;
- (c) assisting in the administration and performance of a contract of insurance;
- (d) dealing in investments as agent;
- (e) making arrangements with a view to transactions in investments;

- (f) advising on regulated mortgage contracts;
 - (g) agreeing to carry on a regulated activity;
 - (h) arranging (bringing about) regulated mortgage contracts, and
 - (i) making arrangements with a view to regulated mortgage contracts.
- 1.2 The FSA has further decided to vary PK's permission by including the following requirements, namely that within 14 days PK must:
- (i) notify in writing all clients for its regulated activities that it is no longer permitted by the FSA to carry on regulated activities, and
 - (ii) provide the FSA with a copy of the written notice sent in accordance with (i) above, together with a list of all clients to whom the notice 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 PK is 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, its resources are not adequate in relation to the regulated activities it has had permission to carry on.
- 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 Statutory Provisions

- 2.3 The FSA's regulatory objectives, established in section 2(2) of the Act, include the protection of consumers.
- 2.4 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;
 - to vary an authorised person's permission, where it is desirable to exercise that power in order to protect the interests of consumers, 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.

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

Relevant Regulatory Provisions

- 2.6 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

- 2.7 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.
- 2.8 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.
- 2.9 EG 8.5 provides that the circumstances in which the FSA will consider exercising its power include those 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. EG 8.5(1) (a) G specifies that the FSA will consider exercising its own-initiative power where a firm's financial resources appear to be inadequate.
- 2.10 EG 8.8(3) includes among the factors which are likely to make the urgent exercise of the FSA's own initiative power appropriate, evidence that a firm has submitted to the FSA inaccurate or misleading information, such that the FSA becomes seriously concerned about that firm's ability to meet its regulatory obligations.
- 2.11 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.

Guidance concerning the relevant threshold condition ("COND")

COND 2.4 – Guidance concerning Threshold Condition 4: Adequate resources (paragraph 4, Schedule 6 to the Act)

- 2.12 COND 2.4.1(1) D reproduces the relevant statutory provision that the resources of the person concerned must, in the opinion of the FSA, be adequate in relation to the regulated activities that he seeks to carry on, or carries on.
- 2.13 COND 2.4.1(2) D permits the FSA, when forming its opinion as to whether the resources of an authorised person are adequate in relation to the regulated activities

that he carries on, to have regard to the provision he makes in respect of liabilities (including contingent and future liabilities).

- 2.14 COND 2.4.2(3) G states that, when assessing whether a firm has adequate resources for the purposes of Threshold Condition 4, the FSA will consider whether a firm is ready, willing and organised to comply with the detailed financial resources requirements in the relevant section of the Prudential Standards part of the Handbook.
- 2.15 COND 2.4.4(3) G requires the FSA only to take into account relevant matters which are material in relation to the regulated activities for which the authorised person has permission.

Relevant Rules

- 2.16 MIPRU 4.2.2 R requires that a firm must, at all times, maintain capital resources equal to or in excess of its relevant capital resources requirement.
- 2.17 MIPRU 4.2.11(1) R states that, where a firm is carrying on insurance mediation activity or home finance mediation activity (and no other regulated activity), and does not hold client money or other client assets in relation to these activities, its capital resources requirement is the higher of:
 - (a) £5,000, and
 - (b) 2.5% of the annual income from its insurance mediation activity or home finance mediation activity (or both).

Facts and matters relied on

- 2.18 PK is a limited company, authorised by the FSA on 31 October 2004 to carry on regulated home finance business, and on 14 January 2005 to carry on insurance mediation business. PK is subject to a requirement in MIPRU 4.2.11(1)R to maintain capital resources of at least £5,000. In its application for FSA authorisation, PK specifically undertook to maintain capital resources of at least the level required by FSA rules.
- 2.19 The balance sheet in PK's Abbreviated Accounts for the year ended 31 July 2005, as filed with Companies House, shows that PK had net liabilities (and therefore negative capital resources) of £42,001 as at 31 July 2005, and of £23,724 as at 31 July 2004.
- 2.20 PK has reported its financial position to the FSA in Retail Mediations Activities Returns ("RMAR"), as at 31 July 2005, 31 January 2006 and 31 July 2006, each of which was completed with incorrect balance sheet figures which in fact related to PK's financial position as at 31 July 2004. A further RMAR as at 31 January 2007 was completed with incorrect balance sheet figures which related to PK's financial position as at 31 July 2005.
- 2.21 The FSA has informed PK that it has capital resources substantially below the level

required, and given PK adequate opportunity to rectify its capital resources position, but PK has failed to do so.

Conclusions

- 2.22 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:
- that PK is failing to meet the requirement set out in MIPRU 4.2.2 R, that it must, at all times, maintain capital resources equal to or in excess of its relevant capital resources requirement, and it appears that PK has not met that requirement at any stage during its authorisation despite having made a specific commitment to do so when PK applied for FSA authorisation;
 - these failings are significant and material in relation to the regulated activities for which PK has permission and PK therefore fails to satisfy Threshold Condition 4 (Adequate resources);
 - the risk of adverse effect on consumers arising from these failings, which are material breaches of requirements imposed upon PK by the FSA's rules, causes the FSA to have very serious concerns about PK, such that the exercise of the FSA's own-initiative power to vary PK's permission with immediate effect is an appropriate response to those concerns, and
 - specifically, the variation of PK's permission should take immediate effect to address the FSA's serious concerns that PK has failed to maintain capital resources which are adequate in relation to the activities it carries on, and that PK has failed to provide accurate financial information to the FSA.

3. DECISION MAKER

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 you, PK, 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 Tom Pollock at the FSA, 9th Floor, 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 (whether or not you refer this matter to the Tribunal). If you wish to make written representations you must do so by 13 January 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 Jane Horncastle, 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, you should inform Jane Horncastle not less than 5 business days before 13 January 2008.

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 Jane Horncastle (direct line: 020 7066 3200/fax: 020 7066 3201), or Jackie Noonan, Regulatory Decisions Committee Professional Support Services (direct line: 020 7066 3074/fax: 020 7066 1015).
- 4.7 For more information concerning this matter generally, you should contact Tom Pollock at the FSA (direct line: 020 7066 1560/fax: 020 7066 1459).

Tim Herrington
Chairman, Regulatory Decisions Committee