
FINAL NOTICE

To: **Julian Rifat**

Individual Reference Number: **JXR01250**

Date: **1 September 2020**

ACTION

1. For the reasons given in this Notice, the Authority has decided to make an order, pursuant to section 56 of the Act, prohibiting Mr Rifat from performing any function in relation to any regulated activities carried on by an authorised or exempt person, or exempt professional firm. The prohibition order takes effect from the date of this Notice.

SUMMARY OF REASONS

2. As set out in more detail in the facts and matters described below, Mr Rifat committed offences involving dishonesty. Mr Rifat:
 - (a) pleaded guilty on 7 November 2014, at Southwark Crown Court, to insider dealing, contrary to section 52(1) of the Criminal Justice Act 1993; and
 - (b) was sentenced on 19 March 2015 to 19 months' imprisonment, fined £100,000 and ordered to pay costs of £159,402.
3. On the basis of the facts and matters set out below, it appears to the Authority that Mr Rifat is not a fit and proper person to perform any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. His conviction demonstrates a clear and serious lack of honesty and integrity such that he is not fit and proper to perform regulated activities.

4. In reaching this decision, the Authority has had regard to all relevant circumstances, including the relevance of the offences, the materiality of any matters indicating unfitness, the passage of time since the offences, the severity of the risk posed by Mr Rifat to consumers and financial institutions and to confidence in the market generally. The Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1.1 above to advance its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

DEFINITIONS

5. The definitions set out below are used in this Notice.

“the Act” means the Financial Services and Markets Act 2000;

“the Authority” means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

“EG” means the Enforcement Guide;

“FIT” means the Authority’s “Fit and Proper Test for Employees and Senior Personnel” sourcebook;

“the RDC” means the Regulatory Decisions Committee of the Authority;

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber);

“the Decision Notice” means the decision notice given to Mr Rifat on 9 July 2020.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

6. The statutory and regulatory provisions relevant to this Notice are set out in the Annex.

FACTS AND MATTERS

7. Mr Rifat was approved by the Authority to perform customer-facing functions for various firms between 1 December 2001 and 23 March 2010.
8. Mr Rifat is not currently approved to perform any functions in relation to any firm authorised by the Authority, and he has not been approved by the Authority to perform any function since 23 March 2010.
9. On 7 November 2014 Mr Rifat pleaded guilty at Southwark Crown Court to insider dealing, contrary to section 52(1) of the Criminal Justice Act 1993.
10. On 19 March 2015 Mr Rifat was sentenced to 19 months’ imprisonment, fined £100,000 and ordered to pay costs of £159,402.

11. In his sentencing remarks (made on 19 March 2015), His Honour Judge McCreath said Mr Rifat behaved "deliberately and dishonestly" and his "impact on confidence in the market must have been high".
12. Mr Rifat's offences consisted of eight occasions of insider dealing over a six-month period from 1 June 2009 to 24 November 2009, when he was an approved person. At the time of the offending Mr Rifat was employed as a senior trader by Moore Europe Capital Management, LLP ("Moore Capital") where he had worked from 19 June 2008. He was a trader, head of European equity sales trading and also in charge of risk management at Moore Capital.
13. Moore Capital is a US-based hedge fund and Mr Rifat was based in their London office. They are a major investor in the market and they would be approached frequently about large scale transactions ahead of any public announcement. The price sensitivity of the fact and the reason for those transactions was therefore both obvious and explicit, particularly to someone in Mr Rifat's position.
14. Prior to each of the eight occasions of insider dealing over the six-month period, Mr Rifat discussed the transactions. These discussions included the formal recognition that he was about to receive price-sensitive information leading to him being "wall-crossed", and in fact in each instance the subsequent public announcement of the price-sensitive event did move the market. This "wall-crossing" process entailed a script being read aloud or supplied before the price-sensitive information was supplied. On each occasion Mr Rifat confirmed to his counterpart that he was aware that he was "over the wall".
15. Mr Rifat did not deal in his own name or execute any trading himself, but dealt via a professional intermediary, a self-employed stockbroker, also approved by the Authority, who placed the trade with others. After Mr Rifat had been "wall-crossed", he would call or text his intermediary within a short period of time so as to provide the inside information before a public announcement was made or an offer was withdrawn. The value across all eight of the trades, each of which was in the form of spread bets, was £285,000, from which Mr Rifat received a substantial sum.
16. Through the Decision Notice, the Authority gave notice of its decision to take the action described in paragraph 1 above. Mr Rifat did not refer the matter to the Tribunal within 28 days of the date on which the Decision Notice was issued to him.
17. The Authority therefore makes an order prohibiting Mr Rifat from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm, for the reasons described above.

PROCEDURAL MATTERS

18. This Notice is given to Mr Rifat under, and in accordance with, section 390 of the Act.

Decision-maker

19. The decision which gave rise to the obligation to give this Notice was made the Regulatory Decisions Committee.

Publicity

20. 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 Authority must publish such information about the matter to which this Notice relates as the Authority considers appropriate. However, the Authority may not publish information if such publication would in the opinion of the Authority, be unfair to Mr Rifat, or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

Contact

21. For more information concerning this matter generally, contact Thomas White (direct line: 020 7066 1397) of the Enforcement and Market Oversight Division of the Authority.

Martin Butcher
Manager, Threshold Conditions Team
Enforcement and Market Oversight Division
Financial Conduct Authority

ANNEX

RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. The Authority's operational objectives include securing an appropriate degree of protection for consumers (section 1C of the Act) and protecting and enhancing the integrity of the UK financial system (section 1D of the Act).
2. Section 56(1) of the Act provides:

"The [Authority] may make a prohibition order if it appears to it that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by:

 - (a) an authorised person,
 - (b) a person who is an exempt person in relation to that activity, or
 - (c) a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity."

RELEVANT REGULATORY PROVISIONS

3. In exercising its power to make a prohibition order, the Authority must have regard to guidance published in the Authority's Handbook of rules and guidance, and in regulatory guides, such as EG. The relevant main considerations in relation to the action specified above are set out below.

The Enforcement Guide

4. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
5. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
6. EG 9.2 sets out the Authority's general policy on making prohibition orders. In particular—
 - (a) EG 9.2.1 states that the Authority will consider all the relevant circumstances, including whether enforcement action has been taken against the individual by other enforcement agencies, in deciding whether to make a prohibition order;
 - (b) EG 9.2.2 states that the Authority has the power to make a range of prohibition orders depending on the circumstances of each case; and

- (c) EG 9.2.3 states that the scope of a prohibition order will depend on, among other things, the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
- 7. EG 9.5.1 states that where the Authority is considering whether to make a prohibition order against someone who is not an approved person, the Authority will consider the severity of the risk posed by the individual and may prohibit him where it considers that it is appropriate to achieve one or more of the Authority's statutory objectives.
- 8. EG 9.5.2 provides that, when considering whether to exercise its power to make a prohibition order against someone who is not an approved person, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, the factors set out in EG 9.3.2. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting the criteria set out in FIT 2.1, 2.2, and 2.3); the relevance and materiality of any matters indicating unfitness; the length of time since the occurrence of any matters indicating unfitness; and the severity of the risk which the individual poses to consumers and to confidence in the financial system.

Fit and Proper Test for Employees and Senior Personnel

- 9. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
- 10. FIT 1.3.1BG(1) states that the most important considerations when assessing the fitness and propriety of a person to perform a controlled function include that person's honesty, integrity and reputation.
- 11. FIT 2.1.1G states that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3G. It notes, amongst other things and by way of example, that:

"... conviction for a criminal offence will not automatically mean an application will be rejected. The [Authority] treats each candidate's application on a case-by-case basis, taking into account the seriousness of, and circumstances surrounding, the offence, the explanation offered by the convicted person, the relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation."
- 12. FIT 2.1.3G(1) states that the matters referred to in FIT 2.1.1G include, but are not limited to, whether a person has been convicted of any criminal offence, noting that particular consideration will be given to offences including dishonesty, fraud, financial crime, and insider dealing (amongst others).