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## FINAL NOTICE

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**To:** Samrat Deep Bhandari

**IRN:** SDB01076

**Dated:** 5 April 2019

### ACTION

1. For the reasons set out below and pursuant to section 56 of the Act, the Authority has decided to prohibit Mr Bhandari from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

### REASONS FOR THE ACTION

2. As set out in more detail in the facts and matters described below:
  - (a) Mr Bhandari was convicted on 30 November 2017 of 2 counts of creating a false or misleading impression, and 1 count of carrying on a regulated activity in contravention of the general prohibition imposed by section 19 of the Act; and
  - (b) Mr Bhandari was sentenced on 31 January 2018 to a total of 3 years and 6 months imprisonment for those offences.
3. On the basis of the facts and matters set out below, it appears to the Authority that Mr Bhandari is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. His convictions demonstrate a clear and serious lack of honesty and integrity. In reaching this decision, the Authority has had regard to all relevant circumstances, including the severity of the risk posed by Mr Bhandari to consumers and financial institutions and to confidence in the market generally.
4. Therefore, the Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1 to advance its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

## **DEFINITIONS**

5. The definitions below are used in this Final Notice (and in the Annex):

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

“the Authority” means the Financial Conduct Authority;

“EG” means the Authority’s Enforcement Guide;

“FIT” means the Fit and Proper Test for Approved Persons sourcebook, part of the Handbook;

“the Handbook” means the Authority’s Handbook of rules and guidance;

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

“the Warning Notice” means the warning notice given to Mr Bhandari dated 11 December 2018.

## **FACTS AND MATTERS**

6. Mr Bhandari was previously approved by the Authority to perform significant influence and customer-facing controlled functions with various firms. Mr Bhandari is not currently approved to perform any controlled functions in relation to any firm authorised by the Authority.

7. On 30 November 2017, Mr Bhandari was convicted at Southwark Crown Court of:

(a) 2 counts of creating a false or misleading impression, contrary to section 397(3) of the Act; and

(b) 1 count of carrying on a regulated activity in contravention of the general prohibition imposed by section 19 of the Act, contrary to section 23 of the Act.

8. On 31 January 2018, Mr Bhandari was sentenced at Southwark Crown Court to a total of 3 years and 6 months imprisonment, to be served concurrently, for the offences summarised at paragraph 7 above.

9. Mr Bhandari’s offences were committed over a prolonged period of time and the scheme to which his offences related involved total losses of £1.4 million by 297 investors.

10. In sentencing, the Judge highlighted that Mr Bhandari was very much the prime mover in the offences referred to in paragraph 7 above. It was further highlighted that Mr Bhandari repeated the offences, despite the criticism and warnings that he received from the Authority.

11. The Authority has therefore decided to prohibit Mr Bhandari 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.

## **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

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

## **DECISION MAKER**

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

## **IMPORTANT**

14. This Final Notice is given to Mr Bhandari in accordance with section 390 (1) of the Act.

## **Publicity**

15. The Authority must publish such information about the matter to which this Final Notice relates as the Authority considers appropriate. The information may be published in such manner 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 Bhandari, or prejudicial to the interest of consumers.
16. The Authority intends to publish this Final Notice and such information about the matter to which this Final Notice relates as it considers appropriate.

## **Authority contact**

17. For more information concerning this matter generally, Mr Bhandari should contact Anna Couzens at the Authority (direct line: 020 7066 61452).

**Anna Couzens**  
**Manager**  
**Enforcement and Market Oversight**

## **ANNEX**

### **RELEVANT STATUTORY 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 Handbook 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 statutory 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 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, amongst 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. 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.

7. 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 person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards (FIT 2.1.3G(13)); the relevance and materiality of any matters indicating unfitness; the length of time since the occurrence 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 Approved Persons**

8. The Authority has issued guidance on the fitness and propriety of individuals in FIT.

9. 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.

10. 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.

11. FIT 2.1.3G states that the matters referred to in FIT 2.1.1G include, but are not limited to, whether, in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply

with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards (FIT 2.1.3G(13)).