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## **FINAL NOTICE**

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**To:     Andy Kayode Obafemi Adegburin                     First Buy Mortgage Services Limited**  
**Suite 346**  
**456 – 458 Strand**  
**London**  
**WC2R 0DZ**

**Date:   28 December 2007**

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London, E14 5HS (the "FSA") gives you final notice about a decision to withdraw the approval granted to Andy Kayode Obafemi Adegburin in relation to First Buy Mortgage Services Limited and about an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised or exempt person**

### **1.     THE ACTION**

- 1.1.   The FSA gave Andy Kayode Obafemi Adegburin ("Mr Adegburin") a Decision Notice (the "Decision Notice") on 22 November 2007 which notified Mr Adegburin that, pursuant to section 63(1) of the Financial Services and Markets Act 2000 (the "Act"), the FSA had decided to withdraw the approval granted to Mr Adegburin in relation to First Buy Mortgage Services Limited ("FBMS").
- 1.2.   Further, the Decision Notice also notified Mr Adegburin that, pursuant to section 56 of the Act, the FSA had decided to make an order prohibiting Mr Adegburin from performing any function in relation to any regulated activity carried on by any authorised or exempt person.
- 1.3.   Mr Adegburin has not referred the matter to the Financial Services and Markets Tribunal within 28 days of the date on which the Decision Notice was given to him.

- 1.4. Accordingly, for the reasons set out below, the FSA has withdrawn the approval granted to Mr Adegburin in relation to FBMS, pursuant to section 63(1) of the Act, and the FSA hereby makes an order, pursuant to section 56 of the Act, prohibiting Mr Adegburin from performing any function in relation to any regulated activity carried on by any authorised or exempt person. This order has effect from 28 December 2007.

## **2. REASONS FOR THE ACTION**

### **Summary**

- 2.1. The FSA has concluded, on the basis of the facts and matters described in its Warning Notice dated 10 October 2007, and in the Decision Notice (an extract from which is attached and forms part of this Final Notice), that it is satisfied that Mr Adegburin is not a fit and proper person to perform the functions for which he is approved in relation to FBMS or any function in relation to any regulated activity carried on by any authorised or exempt person. That is because, in the opinion of the FSA, he has failed to meet the criteria for fitness and propriety as set out in the Fit and Proper Test for Approved Persons in the High Level Standards block of the FSA Handbook. Specifically, Mr Adegburin has provided false and misleading information to the FSA and to mortgage lenders, and he has failed to ensure that FBMS complied with FSA requests for information and documents.

### **Relevant Statutory Provisions**

- 2.2. The FSA's statutory objectives are set out in section 2(2) of the Act and include the protection of consumers and the reduction of financial crime.
- 2.3. By section 63(1) of the Act, the FSA is authorised to withdraw the approval of an individual if it considers the person in respect of whom approval was given is not a fit and proper person to perform the function to which the approval relates.
- 2.4. The FSA's power to make a prohibition order is set out in section 56 of the Act and the procedure to be followed is set out in section 58 of the Act.
- 2.5. Section 64 of the Act permits the FSA to issue statements of principle with respect to the conduct expected of approved persons. If it does so it must also issue a code of practice for the purpose of helping to determine whether or not a person's conduct complies with the statement of principle.

### **Relevant Policy and Handbook Provisions**

- 2.6. In exercising its power to withdraw approval and to issue a prohibition order, the FSA must have regard to its policy and guidance published in the FSA Handbook. The policy, guidance and other provisions that the FSA considers relevant to this case are set out below.

### The Enforcement Guide ("EG")

- 2.7. EG 9.1 explains the purpose of prohibition orders in relation to the FSA's regulatory objectives.
- 2.8. EG 9.2 states that where the FSA considers it appropriate, the FSA may prohibit an approved person in addition to withdrawing their approval.
- 2.9. EG 9.3 to 9.6 set out the FSA's policy on making prohibition orders and withdrawal of approval. In particular:
  - (a) EG 9.3 states that the FSA will consider all relevant circumstances, including whether other enforcement action has been taken, in deciding whether to make a prohibition order and/or withdraw approval;
  - (b) EG 9.4 states that the FSA has power to make a range of prohibition orders: they may be unlimited or they may be limited to specific functions in relation to specific regulated activities; and
  - (c) EG 9.5 states that the scope of a prohibition order will depend on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
- 2.10. EG 9.8 to 9.14 give further specific information about prohibition orders and withdrawal of approval against approved persons. In particular:
  - (a) EG 9.9(2) and (3) state that, when the FSA decides whether to exercise its power to make a prohibition order against an approved person and/or withdraw his approval, the FSA will consider all the relevant circumstances of the case including the criteria for assessing the fitness and propriety of approved persons contained in FIT, and whether and to what extent the approved person has failed to comply with the Statements of Principle;
  - (b) EG 9.10 states that the FSA may have regard to the cumulative effect of a number of factors which, when considered on their own, may not be sufficient to show that the individual is not fit and proper to continue to carry out the controlled functions; and
  - (c) EG 9.12(1) states that providing false or misleading information to the FSA, including information relating to identity, ability to work in the UK and business arrangements are examples of the type of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or withdraw the approval of an approved person.

### Fit and Proper Test for Approved Persons ("FIT")

- 2.11. FIT 1.3.1G(1) states that the most important considerations include a person's honesty,

integrity and reputation.

- 2.12. FIT 2.1 gives specific guidance in determining a person's honesty, integrity and reputation. In particular, FIT 2.1.13G(13) states that the FSA will have regard 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.

Statements of Principle and the Code of Conduct for Approved Persons ("APER")

- 2.13. Statement of Principle 1 provides that:

*"An approved person must act with integrity in carrying out his controlled functions."*

- 2.14. APER 4.1.3E(3) refers to deliberately misleading (or attempting to mislead) by act or omission a client, his firm or the FSA, as conduct which does not comply with Statement of Principle 1. APER 4.1.4E provides that this behaviour includes, but is not limited to, falsifying documents, providing false or inaccurate documentation or information (including details of training, qualifications, past employment record or experience) and providing false or inaccurate information to the FSA.

- 2.15. Statement of Principle 4 provides that:

*"An approved person must deal with the FSA and with other regulators in an open and cooperative way and must disclose appropriately any information of which the FSA would reasonably expect notice."*

- 2.16. APER 4.4.9E refers to failing without good reason to inform a regulator of information of which the approved person was aware in response to questions from that regulator and to supply a regulator with appropriate documents or information when requested or required to do so and within the time limits attaching to that request or requirement.

### **3. IMPORTANT**

- 3.1. This Final Notice is given to Mr Adegburin in accordance with section 390(1) of the Act.

#### **Publicity**

- 3.2. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the FSA must publish such information about the matter to which this Final Notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to Mr Adegburin or

prejudicial to the interests of consumers.

- 3.3. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

**FSA contacts**

- 3.4. For more information concerning this matter generally, you should contact Pauline Cheng at the FSA (direct line: 020 7066 5228/fax: 020 7066 5229).

**John Kirby**  
**FSA Enforcement Division**

**EXTRACT FROM THE DECISION NOTICE DATED 22 NOVEMBER 2007 ISSUED TO ANDY KAYODE OBAFEMI ADEGBURIN**

**"2. REASONS FOR ACTION**

**Facts and Matters Relied On**

- 2.17. Mr Adegburin has been approved by the FSA since 31 October 2004 [in relation to First Buy Mortgage Services Limited ("FBMS")].
- 2.18. Information supplied to the FSA by lenders and the Home Office, shows that applications made by Mr Adegburin to mortgage lenders contained false and misleading information relating to the validity of a passport, the duration of his residence in the UK, his marital status and the level of his income.
- 2.19. When the FSA approached Mr Adegburin about these matters, he did not provide any satisfactory explanation. When answering questions he made false and misleading statements about his immigration status. This included providing details of another individual's arrival number, shown on "the indefinite leave to remain" stamp on a passport, as his own. Additionally, in relation to his mortgage applications, Mr Adegburin accepted that in one case he falsely stated the level of his income so that he met, on paper, the lender's criteria.
- 2.20. Mr Adegburin [as the sole director of FBMS] also failed to ensure that FBMS complied with repeated requests by the FSA for information and documents, including a formal request pursuant to sections 171 and 172 of the Act, the purpose of which was, amongst other things, to assess FBMS' compliance with regulatory requirements.
- 2.21. Mr Adegburin wrote to the FSA on 31 October 2007. The FSA has treated his letter as written representations. Mr Adegburin's letter indicated that he and FBMS were withdrawing from any business of providing mortgage advice or engaging in regulated activities.

**Conclusions**

- 2.22. Mr Adegburin's letter does not, in the FSA's view, alter the position. Accordingly, the facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, to conclude that:
- Mr Adegburin has failed to act with honesty and integrity by misleading the FSA in relation to his immigration status and by using false and misleading information to obtain mortgages;
  - Mr Adegburin has failed to be open and co-operative in his dealings with the FSA by failing to ensure that FBMS complied with information and document

requests and by making false and misleading statements to the FSA;

- his attempt to mislead the FSA goes directly to impugn his honesty, integrity and reputation and therefore to demonstrate that he is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt person;
- Mr Adegburin presents a risk to consumers, to mortgage lenders and to other financial institutions as well as to the FSA's statutory objective of the reduction of financial crime; and
- the severity of the risk Mr Adegburin poses to consumers and to confidence in the market generally is such that it is necessary in order to achieve its regulatory objectives for the FSA to make a prohibition order in the terms proposed."

**END OF EXTRACT**