

Financial Services Authority

FINAL NOTICE

To: **Basharat Hussain**
Of: **163 Berridge Road**
Nottingham
NG7 6HR

FSA reference number: **512476**

Dated: **6 March 2012**

1. ACTION

- 1.1. For the reasons given below in this Final Notice, the Financial Services Authority (the “FSA”) has taken the following action against Basharat Hussain (“Mr Hussain”).
- 1.2. The FSA gave Mr Hussain a Decision Notice on 31 January 2012 (the “Decision Notice”) which notified Mr Hussain that for the reasons given below and pursuant to Regulation 10(1)(h) of the Payment Services Regulations 2009 (the “PSR”) (as applied by regulation 14 of the PSR), the FSA had decided to cancel the registration granted to Mr Hussain as a small payment institution under the PSR.
- 1.3. Mr Hussain was informed of his statutory right to make a reference to the Upper Tribunal (Tax and Chancery Chamber) (the “Upper Tribunal”), but he has not referred the Decision Notice to the Upper Tribunal within 28 days of the date on which the Decision Notice was given to him.
- 1.4. Accordingly, the FSA has today cancelled Mr Hussain’s registration as a small payment institution.

2. REASONS FOR ACTION

- 2.1. On the basis of the facts and matters described below, the FSA has concluded that the address of the head office of Mr Hussain has changed and he has failed to notify the FSA of that change thereby preventing the FSA from regulating his business effectively. It is therefore desirable to cancel Mr Hussain's registration as a small payment institution in order to protect the interests of consumers, in accordance with Regulation 10(1)(h) of the PSR (as applied by Regulation 14).

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

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

4. FACTS AND MATTERS RELIED ON

- 4.1. Mr Hussain was registered by the FSA on 25 November 2009 as a small payment institution.
- 4.2. The FSA has repeatedly attempted to contact Mr Hussain using the contact details and address last given by Mr Hussain to the FSA as his head office. These contact details are no longer valid.
- 4.3. Mr Hussain has not notified the FSA of a change in the address of his head office.
- 4.4. By its Warning Notice dated 21 December 2011 (the "Warning Notice"), the FSA gave notice that it proposed to cancel Mr Hussain's registration as a small payment institution, and Mr Hussain was given the opportunity to make representations to the FSA about that proposed action.
- 4.5. No representations having been received by the FSA from Mr Hussain within the time allowed by the Warning Notice, the default procedures in DEPP 2.3.2G of the FSA's Decision Procedure and Penalties Manual permit the facts and matters described in the Warning Notice to be regarded as undisputed.
- 4.6. By its Decision Notice dated 31 January 2012 (the "Decision Notice"), the FSA gave notice that it had decided to take action to cancel Mr Hussain's registration for the reasons described in the Decision Notice.

5. DECISION MAKER

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

6. IMPORTANT

- 6.1. This Final Notice is given to Mr Hussain in accordance with section 390(1) of the Financial Services and Markets Act 2000 (the “Act”) (as applied by paragraph 7(b) of Part 1 of Schedule 5 to the PSR).

Publicity

- 6.2. Sections 391(4), 391(6) and 391(7) of the Act (as applied by paragraph 7(c) of Part 1 of Schedule 5 of the PSR) 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 Hussain or prejudicial to the interests of consumers.
- 6.3. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contact

- 6.4. For more information concerning this matter generally, please contact Stephanie Prowse (direct line: 020 7066 9404/fax: 020 7066 9405) at the FSA.

.....
John Kirby
FSA Enforcement and Financial Crime Division

**ANNEX TO THE FINAL NOTICE ISSUED BY THE FINANCIAL SERVICES
AUTHORITY TO BASHARAT HUSSAIN ON 6 MARCH 2012**

RELEVANT STATUTORY PROVISIONS

1. Regulation 14 of the PSR states:

“Regulations 7 to 11 apply to registration as a small payment institution as they apply to authorisation as a payment institution ...”
2. Under regulation 10(1)(h) of the PSR (as applied by regulation 14), the FSA may cancel the registration of a small payment institution where the cancellation is desirable in order to protect the interests of consumers.
3. Under regulation 13(5) of the PSR, it is a condition for registration as a small payment institution that, among other conditions, its head office must be in the United Kingdom.
4. Regulation 32(1) of the PSR states:

“Where it becomes apparent to ... a small payment institution that there is, or is likely to be, a significant change in circumstances which is relevant to - ...

(b) ... its fulfilment of any of the conditions set out in regulation 13(4) to (6) ...

it must provide [the FSA] with details of the change without undue delay, or, in the case of a substantial change in circumstances which has not yet taken place, details of the likely change a reasonable period before it takes place.”
5. A change in the address of a small payment institution’s head office is a significant change in circumstances. That address is relevant to the firm’s fulfilment of the condition set out in regulation 13(5). Therefore, regulation 32 gives rise to the obligation to notify the FSA without undue delay of any change in that address.

OTHER RELEVANT REGULATORY PROVISIONS

6. The FSA’s policy in relation to exercising its enforcement powers generally is set out in the Enforcement Guide (“EG”) and, in relation to the PSR, from EG 19.90.
7. EG 19.91 provides that the FSA’s approach to enforcing the PSR will mirror its general approach to enforcing the Act.
8. EG 19.93 provides that, in relation to the PSR, the FSA has decided to adopt procedures and policies in relation to the use of its sanctioning and regulatory powers akin to those it has under the Act. Relevant in this regard, the types of circumstances in which the FSA will consider cancelling a firm’s Part IV permissions under the Act include failure to provide the FSA with valid contact details, such that the FSA is unable to communicate with the firm.

9. The document “The FSA’s role under the Payment Services Regulations 2009: Our approach” (updated in August 2011) provides guidance to give a practical understanding of the requirements of the PSR and the FSA’s regulatory approach. The FSA’s approach to enforcement is described in chapter 14. Paragraph 14.8 (What sanctions can we use when a payment service provider breaches the PSRs?) relates to the use of cancellation of the registration of a small payment institution where certain criteria set out in the PSRs are met.
-