

---

## FINAL NOTICE

---

**To:** Church Hill Finance (Anthony Badaloo trading as)

**Address:** 178 Church Hill Road  
East Barnet  
Barnet  
EN4 8PP

**FCA  
Reference  
Number:** 402188

**Date:** 9 November 2017

### ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Badaloo.
2. The Authority issued to Mr Badaloo the Decision Notice which notified Mr Badaloo that, for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel Mr Badaloo's Part 4A permission.
3. On 11 November 2016, Mr Badaloo referred the matter to the Tribunal.
4. On 7 March 2017, the Authority submitted an application to the Tribunal to strike out Mr Badaloo's reference on the basis that Mr Badaloo's reference had no reasonable prospect of success. On 24 April 2017, the Tribunal issued a decision in which it accepted the Authority's application, and struck out Mr Badaloo's reference.
5. On 3 May 2017, Mr Badaloo applied to the Tribunal for permission to appeal the Tribunal's decision. On 8 May 2017, the Tribunal refused Mr Badaloo's application

for permission to appeal, on the basis that the arguments Mr Badaloo advanced in support of his appeal identified no arguable errors of law in the decision of the Tribunal. On 10 May 2017, Mr Badaloo filed an application for permission to appeal to the Court of Appeal.

6. On 16 October 2017, the Court of Appeal issued the Order in which it refused Mr Badaloo's application for permission to appeal against the Tribunal's decision to strike out Mr Badaloo's reference, on the basis that Mr Badaloo's application was "totally without merit". The Order provides that the Court of Appeal's decision is final and cannot be further reviewed or appealed.
7. Accordingly, the Authority has today cancelled Mr Badaloo's Part 4A permission.

## **DEFINITIONS**

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

"the Act" means the Financial Services and Markets Act 2000;

"the appropriate resources Threshold Condition" means the threshold condition set out in Paragraph 2D of Schedule 6 to the Act;

"the Authority" means the Financial Conduct Authority;

"COND" means the Threshold Conditions part of the Handbook;

"the Decision Notice" means the Decision Notice dated 12 October 2016;

"EG" means the Authority's Enforcement Guide;

"the Handbook" means the Authority's Handbook of rules and guidance;

"Mr Badaloo" means Anthony Badaloo, a sole trader, whose trading name is Church Hill Finance;

"Mr Badaloo's Part 4A permission" means the permission granted to Mr Badaloo under Part 4A of the Act;

"the Order" means the Order made by the Court of Appeal on 16 October 2017;

"the Principles" means the Authority's Principles for Businesses;

"the suitability Threshold Condition" means the threshold condition set out in paragraph 2E of Schedule 6 to the Act;

"SYSC" means the Senior Management Arrangements, Systems and Controls sourcebook in the Handbook;

"the Threshold Conditions" means the threshold conditions set out in Schedule 6 to the Act;

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber); and

"the Warning Notice" means the Warning Notice dated 1 June 2016.

## **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

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

## **SUMMARY OF REASONS**

10. The Authority has concluded, on the basis of the facts and matters and conclusions described in the Warning Notice and the Decision Notice, that Mr Badaloo is failing to satisfy the suitability Threshold Condition in that:
  - (a) Mr Badaloo, a sole trader, has since 13 April 2015 repeatedly failed to comply fully, or at all, with the Authority's reasonable requests to provide information and documents to the Authority in relation to his business records and his creditor position;
  - (b) Mr Badaloo has not been open and co-operative in all of his dealings with the Authority, in breach of Principle 11 (Relations with regulators) of the Principles; and
  - (c) On 2 October 2015, Mr Badaloo was convicted of one count of trespassing and one count of theft, and on 30 October 2015, he was sentenced for those offences to a Community Order of 100 hours of unpaid work, and ordered to pay £3,500 in costs, plus a £60 victim surcharge. On this basis, the Authority considers that Mr Badaloo cannot be expected to act with probity.
11. In the light of these matters, the Authority considers that Mr Badaloo is not fit and proper to have permission to conduct regulated activities.

## **FACTS AND MATTERS RELIED ON**

12. Mr Badaloo was authorised by the Authority on 29 October 2004 to conduct designated investment business, and on 31 October 2004 he was also given permission to conduct regulated home finance business.
13. Mr Badaloo has since 13 April 2015 repeatedly failed to comply fully, or at all, with reasonable requests by the Authority that he provide information and documents to the Authority in relation to his business records and his creditor position.
14. In failing to provide information and documents to the Authority in relation to his business records, Mr Badaloo failed to explain to the Authority what alternative arrangements he has made to demonstrate that he satisfies his record-keeping obligations under SYSC 9.1.1R, following the repossession of his principal place of business on 7 November 2014 and the destruction of his business records on 24 June 2015.
15. Further, Mr Badaloo's failure to provide the information and documents to the Authority in relation to his business records and his creditor position means that the Authority is unable to assess whether Mr Badaloo's financial and non-financial resources are appropriate in relation to the regulated activities that he carries on and therefore whether Mr Badaloo is satisfying the appropriate resources Threshold Condition.
16. On 2 October 2015, Mr Badaloo was convicted on indictment at Harrow Crown Court of one count of trespassing, contrary to sections 144(1) and (5) of the

Legal Aid, Sentencing and Punishment Act 2012, and one count of theft, contrary to sections 1(1) and 7 of the Theft Act 1968.

17. On 30 October 2015, Mr Badaloo was sentenced for those convictions at Harrow Crown Court to a Community Order of 100 hours of unpaid work, and was ordered to pay £3,500 in costs, plus a £60 victim surcharge.
18. The Authority invited Mr Badaloo to apply to cancel his Part 4A permission, but Mr Badaloo declined to do so.

## **FAILINGS**

19. Based on the facts and matters set out above, the Authority has concluded that Mr Badaloo is failing to satisfy the suitability Threshold Condition. In particular:
  - (a) Mr Badaloo's unreasonable failure to provide the information requested by the Authority leads the Authority to conclude that he is failing to be open and co-operative with the Authority, in breach of Principle 11 (Relations with regulators) of the Principles;
  - (b) Mr Badaloo has failed to satisfy the Authority that he is ready, willing and organised to comply with the requirements and standards under the regulatory system (COND 2.5.6G(1)); and
  - (c) On the basis of Mr Badaloo's criminal convictions, the Authority concludes that Mr Badaloo cannot be expected to act with probity (COND 2.5.1AUK(1)(e) and COND 2.5.6G(2)).
20. In the light of these matters, the Authority is not satisfied that Mr Badaloo is a fit and proper person having regard to all the circumstances. Accordingly, Mr Badaloo's Part 4A permission should be cancelled.

## **DECISION MAKER**

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

## **IMPORTANT**

22. This Final Notice is given to Mr Badaloo in accordance with section 390 of the Act.

## **Publicity**

23. 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 Badaloo or prejudicial to the interest of consumers.
24. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

**Authority Contact**

25. For more information concerning this matter generally, please contact Roger Hylton at the Authority (direct line: 020 7066 8168).

**Anna Couzens**  
**Enforcement and Market Oversight Division**

## **ANNEX**

### **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

1. The Authority's operational objectives established in section 1B of the Act include securing an appropriate degree of protection for consumers.
2. The Authority is authorised by section 55J of the Act to, amongst other things, cancel a firm's Part 4A permission where it appears to the Authority that it is failing to satisfy the Threshold Conditions.
3. The appropriate resources Threshold Condition provides, in relation to a person ("A") carrying on or seeking to carry on regulated activities which do not consist of or include a PRA-regulated activity, that:

"The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on."

4. The suitability Threshold Condition provides, in relation to a person ("A") carrying on or seeking to carry on regulated activities which do not consist of or include a PRA-regulated activity, that:

"A must be a fit and proper person having regard to all the circumstances, including-

[...]

- (c) the need to ensure that A's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;
- (d) whether A has complied and is complying with ... requests made by the [Authority], relating to the provision of information to the [Authority] ...;
- (e) whether those who manage A's affairs have adequate skills and experience and have acted and may be expected to act with probity;

[...]"

5. In exercising its power to cancel a Part 4A permission, the Authority must have regard to the regulatory requirements and guidance published in the Handbook. The main considerations relevant to the action stated in this Notice are set out below.

### **Relevant Principle**

6. Principle 11 (Relations with regulators) of the Principles, states that a firm must deal with its regulators in an open and cooperative way, and must disclose to the appropriate regulator anything relating to the firm of which the regulator would reasonably expect notice.

## Relevant rule

7. SYSC 9.1.1R states:

"A firm must arrange for orderly records to be kept of its business and internal organisation, including all services and transactions undertaken by it, which must be sufficient to enable the appropriate regulator ... to monitor the firm's compliance with the requirements under the regulatory system, and in particular to ascertain that the firm has complied with all obligations with respect to clients."

## Guidance concerning the suitability Threshold Condition

### COND 2.5 – Suitability: Paragraph 2E of Schedule 6 to the Act

8. COND 2.5.1AUK(1) reproduces the relevant statutory provision that the person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including amongst other things: the need to ensure his affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers; whether he has complied and is complying with requests made by the Authority, relating to the provision of information to the Authority; and whether those who manage his affairs have adequate skills and experience and act with probity (COND 2.5.1AUK(1)(c),(d) and (e)).
9. COND 2.5.4G(2) states that examples of the considerations to which the Authority may have regard when assessing whether a firm will satisfy and continue to satisfy the Threshold Conditions include whether the firm conducts its business with integrity and in compliance with proper standards (COND 2.5.4G(2)(a)).
10. COND 2.5.6G gives examples of the kind of particular considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, the suitability Threshold Condition, including but not limited to: (i) whether the firm has been open and co-operative in all its dealings with the Authority and is ready, willing and organised to comply with the requirements and standards under the regulatory system (COND 2.5.6G(1)); and (ii) whether the firm has been convicted, or is connected with a person who has been convicted, of any criminal offence, with particular consideration to be given to offences of dishonesty, fraud or financial crime (COND 2.5.6G(2)).

## The Enforcement Guide

11. The Authority's policy in relation to its enforcement powers is set out in EG, certain provisions of which are summarised below.
12. EG 8.1.1 reflects the provisions of section 55J of the Act that the Authority may use its own-initiative power to cancel a firm's Part 4A permission where the firm is failing or is likely to fail to satisfy the Threshold Conditions (EG 8.1.1(1)); or where it is desirable to exercise the power in order to advance one or more of the Authority's operational objectives (EG 8.1.1(3)).
13. EG 8.5.1(1) states that the Authority will consider cancelling a firm's Part 4A permission using its own-initiative power contained in section 55J of the Act in circumstances where the Authority has very serious concerns about the firm.