
FINAL NOTICE

To: Colin Bermingham

Individual Reference Number: CJB01188

Date: 27 September 2021

ACTION

1. For the reasons given in this Final Notice and pursuant to section 56 of the Act, the Authority hereby makes an order prohibiting Colin Bermingham from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm. This order takes effect from the date of this Notice.
2. Mr Bermingham agreed to resolve this matter.

REASONS FOR THE ACTION

3. As set out in more detail in the facts and matters described below, Mr Bermingham:
 - (1) was convicted on 28 March 2019 of one count of conspiracy to defraud relating to EURIBOR submissions made at Barclays under his supervision; and
 - (2) was sentenced on 1 April 2019 to 5 years imprisonment.

4. In view of the facts and matters set out below, it appears to the Authority that Mr Bermingham 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 clear and serious dishonesty and a lack of integrity such that he is not fit and proper to perform functions in relation to regulated activities.
5. In reaching this decision, the Authority has had regard to all relevant circumstances, including: the relevance and materiality of the offence; the fact that Mr Bermingham has been convicted of an offence of dishonesty concerning financial crime and market manipulation; the fact that the offence was committed whilst he was approved as an individual by the Authority; and the severity of the risk posed by Mr Bermingham to consumers and financial institutions, and to confidence in the market generally.
6. The Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1 to achieve its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).
7. The Authority hereby makes an order prohibiting Colin Bermingham from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm. This order takes effect from the date of this Notice.
8. Mr Bermingham agreed to resolve this matter.

DEFINITIONS

9. The definitions 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;
 - “Barclays” means Barclays Bank PLC and its associated entities;
 - “EG” means the Authority’s Enforcement Guide;
 - “FIT” means the Authority’s Fit and Proper test for Approved Persons;
 - “EURIBOR” means the Euro Interbank Offered Rate;
 - “SFO” means the Serious Fraud Office;
 - “Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

FACTS AND MATTERS

10. Mr Bermingham was previously approved by the Authority to perform the following controlled functions:
 - (1) CF26 (Customer Trading) from 1 December 2001 to 31 October 2007; and

- (2) CF30 (Customer) from 1 November 2007 to 22 May 2012.
11. On 16 January 2014, the Authority gave Mr Bermingham a warning notice proposing to impose sanctions against him relating to the facts and matters forming the criminal count of conspiracy to defraud (set out in paragraph 12 below). The regulatory proceedings were stayed on 23 January 2014 pending the SFO's decision whether to charge Mr Bermingham.
 12. Mr Bermingham was subsequently charged by the SFO with the offence described in paragraph 12 below.
 13. On 28 March 2019 Mr Bermingham was convicted at Southwark Crown Court of one count of conspiracy to defraud in respect of fixing EURIBOR.
 14. The single count upon which Mr Bermingham was convicted involved him, between 1 January 2005 and 31 December 2009, whilst an employee of Barclays, conspiring with others to defraud in that:
 - (1) Knowing or believing that Barclays was party to trading referenced to the EURIBOR,
 - (2) They dishonestly agreed to procure or make submissions of rates into the EURIBOR setting process by Barclays which were false or misleading in that they:
 - (a) were intended to create an advantage to the trading positions of employees of Barclays and
 - (b) deliberately disregarded the proper basis for the submission of those ratesthereby intending that the economic interests of others may be prejudiced.
 15. On 1 April 2019 Mr Bermingham was sentenced to five years' imprisonment. In the sentencing remarks the judge stated that as head of the cash desk, the Barclays end of the conspiracy could not have been done without Mr Birmingham's agreement and involvement.

PROCEDURAL MATTERS

16. This Notice is given to Mr Bermingham under and in accordance with section 390 of the Act.

Decision maker

17. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers of the Authority.

Publicity

18. 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. 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 you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

19. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Contact

20. For more information concerning this matter generally, please contact Richard Littlechild (direct line: 020 7066 7146) at the Authority.

Mario Theodosiou
Head of Department
Financial Conduct Authority, Enforcement and Market Oversight

ANNEX A

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. The Authority has the power, pursuant to section 56 of the Act, to make a prohibition order if it appears to the Authority that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, exempt person or exempt professional firm. Pursuant to section 56(2) of the Act, such an order may relate to a specified function, any function falling within a specified description or any function.
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 Fit and Proper test for Approved Persons ("FIT")

4. FIT sets out the criteria for assessing a person's fitness and propriety.
5. FIT 1.3.1BG(1) states that the Authority will have regard to, among other things, a person's honesty and integrity when assessing the fitness and propriety of a person to perform a particular controlled function.
6. FIT 1.3.3G states that the criteria listed in FIT 2.1 to FIT 2.3 are guidance and will be applied in general terms where the Authority is determining a person's fitness and propriety, and that it would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination.
7. 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 which may have arisen either in the United Kingdom or elsewhere. The Authority should be informed of these matters, but will consider the circumstances only where relevant to the requirements and standards of the regulatory system. This includes, for example, under FIT 2.1.3G(1), the fact that a 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.
8. FIT 2.1.3G states that the matters referred to in FIT 2.1.1G to which the

Authority will have regard, include (but are not limited to) whether the person has been convicted of . any criminal offence, with particular consideration being given to offences of dishonesty, financial crime, market manipulation and insider dealing.

Prohibition order

9. The Authority's approach to deciding whether to impose a prohibition order, and the scope of any such prohibition order, is set out in chapter 9 of EG.
10. EG 9.1 sets out how the Authority's power to make a prohibition order under section 56 of the Act helps it work towards achieving its statutory objectives. The Authority may exercise this power where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.
11. EG 9.2.1 states that, in deciding whether to make a prohibition order, the Authority will consider all the relevant circumstances including whether other enforcement action should be taken or has been taken already against that individual by the Authority.
12. 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 the range of regulated activities to which the individual's lack of fitness and propriety is relevant. Depending on the circumstances of each case, the Authority may seek to: prohibit individuals from performing any class of function in relation to any class of regulated activity; limit the prohibition order to specific functions in relation to specific regulated activities; or make an order prohibiting an individual from being employed by a particular firm, type of firm or any firm.
13. EG 9.2.3 states that the scope of a prohibition order will depend on the range of functions which the individual concerned performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of risk which he poses to consumers or the market generally.
14. EG 9.5.1 states that, where the Authority is considering making a prohibition order against an individual who is not an approved person, the Authority will consider the severity of the risk posed by the individual, and may prohibit the individual where it considers this is appropriate to achieve one or more of its statutory objectives.
15. EG 9.5.2 states that, when considering whether to exercise its power to make a prohibition order against such an individual, the Authority will consider all the relevant circumstances of the case, which may include (but are not limited to), where appropriate, the factors set out in paragraph 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.