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FINAL NOTICE

To: **Dale Robert Walker**

Address: **Prisoner Number: A5609DL**
HM Prison Highpoint South
Stradishall
Newmarket
CB8 9YG

Individual Reference Number: **DRW01163**

Dated: **1 November 2016**

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Walker.
2. The Authority gave Mr Walker the Decision Notice, which notified Mr Walker that, for the reasons given below and pursuant to section 56 of the Act, the Authority had decided to make an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
3. Mr Walker has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
4. Accordingly, for the reasons set out below, the Authority hereby makes an order pursuant to section 56 of the Act prohibiting Mr Walker from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. The Prohibition Order takes effect from 1 November 2016.

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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;

“the Decision Notice” means the Decision Notice given to Mr Walker dated 28 June 2016;

“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 Prohibition Order” means the order prohibiting Mr Walker, pursuant to section 56 of the Act, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm;

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

“the Warning Notice” means the Warning Notice given to Mr Walker dated 6 June 2016.

RELEVANT STATUTORY PROVISIONS

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

SUMMARY OF REASONS

7. The Authority has concluded, on the basis of the facts and matters and conclusions described in the Warning Notice, and in the Decision Notice, that Mr Walker 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, as his conduct demonstrates a clear and serious lack of honesty, integrity and reputation. Specifically, Mr Walker:

(a) was convicted on 8 April 2015 of one count of aiding and abetting the carrying on or purported carrying on of a regulated activity in the UK without authorisation or exemption and one count of possessing criminal property;

(b) was sentenced on 27 April 2015 to 21 months’ imprisonment and five and a half years’ imprisonment, concurrently, for those offences respectively; and

(c) was disqualified from being a company director under section 2 of the Company Directors Disqualification Act 1986 for 8 years, for each offence, concurrently.

FACTS AND MATTERS RELIED ON

8. On 8 April 2015, Mr Walker was convicted at Southwark Crown Court of:
 - (a) one count of aiding and abetting the carrying on or purported carrying on of a regulated activity in the UK without authorisation or exemption, contrary to sections 19 and 23(1) of the Act; and
 - (b) one count of possessing criminal property, contrary to section 329(1)(c) of the Proceeds of Crime Act 2002.
9. On 27 April 2015, Mr Walker was sentenced at Southwark Crown Court to 21 months' imprisonment and five and a half years' imprisonment, concurrently, for the offences summarised at paragraph 8 above respectively.
10. Mr Walker was disqualified from being a company director under section 2 of the Company Directors Disqualification Act 1986 for 8 years, for each of those offences, the periods of disqualification to run concurrently.
11. Mr Walker's offences were committed dishonestly over a prolonged period of time (over three years) and the scheme to which his offences related involved total losses of £4.3 million by more than 100 investors.

DECISION MAKER

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

IMPORTANT

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

Publicity

14. 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 Walker or prejudicial to the interest of consumers.
15. 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

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

John Kirby
Enforcement and Market Oversight Division

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.
7. 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.

8. EG 9.5.2 provides 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. These may include, but are not limited to, the factors set out in EG 9.3.2. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting that criteria are 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.

Fit and Proper Test for Approved Persons

9. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
10. 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.
11. FIT 2.1.1G states that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters. It notes, amongst other things and by way of example, that:

"... 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 the 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."
12. FIT 2.1.3G(1) states that the matters referred to in FIT 2.1.1G include, but are not limited to, whether a person has been convicted of any criminal offence, noting that particular consideration will be given to certain offences including those of dishonesty, fraud, financial crime or an offence under legislation relating to financial services (amongst other things).