
FINAL NOTICE

To: **Finance.com Limited trading as UK Mortgages and Loans**

Address: **200-202 Deane Road
Bolton
Lancashire
BL3 5DP**

FSA reference number: **434864**

Dated: **20 January 2010**

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 cancel the permission granted to Finance.com Limited trading as UK Mortgages and Loans ("Finance.com") to carry on regulated activities

1. THE ACTION

- 1.1. The FSA gave Finance.com a Decision Notice on 18 January 2010 which notified Finance.com that, pursuant to section 45 of the Financial Services and Markets Act 2000 ("the Act"), the FSA had decided to cancel the permission granted to Finance.com pursuant to Part IV of the Act ("Finance.com's Part IV permission").
- 1.2. Finance.com agreed that it would not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. Accordingly, for the reasons set out below and having agreed with Finance.com the facts and matters relied on, the FSA has today cancelled Finance.com's Part IV permission.

2 REASONS FOR THE ACTION

- 2.1. The FSA has concluded, on the basis of the facts and matters set out below, that Finance.com is failing to satisfy the threshold conditions set out in Part 1 of Schedule 6 to the Act (“the Threshold Conditions”).
- 2.2. By a Final Notice dated 20 January 2010, having concluded that Riaz Ahmad is not a fit and proper person, pursuant to sections 63 and 56 of the Act, the FSA withdrew Mr Ahmad’s approval and made an order prohibiting him from carrying out any controlled function involving the exercise of significant influence over any person in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
- 2.3. As Mr Ahmad is Finance.com’s sole director and only approved person. As a consequence of the action taken by the FSA to withdraw Mr Ahmad’s approval and to prohibit him, Finance.com does not have any approved persons to carry out controlled functions. In these circumstances, Finance.com is failing to satisfy Threshold Condition 4 (adequate resources) in that it has inadequate human resources in relation to the regulated activities that it has permission to carry on.
- 2.4. In addition, the FSA is not satisfied that Finance.com is a fit and proper person having regards to all the circumstances by virtue of its connection with Mr Ahmad whom the FSA considers to be an unfit controller. Consequently, Finance.com is failing to satisfy Threshold Condition 5 (suitability) in that it does not have a competent and prudent management.

3. STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

- 3.1. Relevant statutory provisions, regulatory guidance and policy are set out in an Annex to this Final Notice.

4. FACTS AND MATTERS RELIED ON

Background

- 4.1. Finance.com is a small retail mortgage and insurance intermediary, which operates in Bolton. With effect from 8 August 2005, Finance.com became authorised and regulated by the FSA to carry on the following regulated activities (those marked with an asterisk were limited to non-investment insurance contracts):

- (1) advising on investments (except on pension transfers and pension opt outs)*;
- (2) advising on regulated mortgage contracts;
- (3) agreeing to carry on a regulated activity;
- (4) arranging (bringing about) deals in investments*;
- (5) arranging (bringing about) regulated mortgage contracts;

- (6) making arrangements with a view to transactions in investments*; and
 - (7) making arrangements with a view to regulated mortgage contracts.
- 4.2. Mr Ahmad was approved by the FSA on 8 August 2005 to perform the following controlled functions at Finance.com: CF1 (Director), CF8 (Apportionment and Oversight – until 31 March 2009) and he was also responsible for insurance mediation. Apart from Mr Ahmad, there are no other persons approved to perform controlled functions in relation to the regulated activities for which Finance.com has permission.

Mr Ahmad: withdrawal of approval and prohibition

- 4.3. The FSA has conducted an investigation into Mr Ahmad and as a result identified serious concerns relating to Mr Ahmad's fitness and propriety. Specifically, Mr Ahmad failed to demonstrate the competence and capability required of an approved person while performing controlled functions as a senior manager in relation to Finance.com's regulated mortgage business in the period from 8 August 2005 to 30 July 2008. The FSA's concerns are set out more fully in the Final Notice dated 20 January 2010. In summary, the FSA found that Mr Ahmad failed to:
- (1) understand his responsibilities associated with running a regulated mortgage business;
 - (2) put in place adequate supervision arrangements over his mortgage adviser who was left effectively to run the business despite not holding any controlled functions;
 - (3) take sufficient steps to keep informed about the affairs of the business or engage with Finance.com's external compliance consultants to ensure that compliance failings were addressed and did not recur;
 - (4) put in place adequate arrangements for monitoring the suitability of mortgage advice provided by Finance.com. Consequently, deficiencies relating to the content and completion of fact finds and suitability letters were not identified and Finance.com could not demonstrate the suitability of its mortgage recommendations; and
 - (5) put in place adequate risk management systems to prevent Finance.com being used to further financial crime. Consequently, Finance.com submitted mortgage applications based on inaccurate and misleading information on behalf of its customers to lenders.

5. ANALYSIS OF THE MISCONDUCT AND THE ACTION

- 5.1. The FSA has considered whether it would be appropriate to cancel Finance.com's Part IV permission. In doing so, the FSA has considered its regulatory objectives, the regulatory guidance and policy referred to in the Annex.

5.2. The facts and matters described above lead the FSA to conclude that Finance.com is failing, and will continue to fail, to satisfy:

- (1) Threshold Condition 4 (adequate resources) as it does not have adequate human resources as a consequence of the FSA's withdrawal of Mr Ahmad's approval and prohibition order against him; and
- (2) Threshold Condition 5 (suitability) as it no longer satisfies the FSA that it is a fit and proper person having regard to all the circumstances, including its connection with Mr Ahmad.

5.3. In the circumstances, the FSA considers it appropriate to cancel Finance.com's Part IV permission to achieve the FSA's regulatory objective of maintaining confidence in the financial system, the protection of consumers and the reduction of financial crime.

6 DECISION MAKERS

6.1. The decision which gave rise to the obligation to give this Final Notice was made by the Settlement Decision Makers on behalf of the FSA.

7 IMPORTANT

7.1. This Final Notice is given to Finance.com in accordance with section 390 of the Act.

Publicity

7.2. 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 Finance.com or prejudicial to the interests of consumers.

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

FSA contact

7.4. For more information concerning this matter generally, Finance.com should contact Anna Hynes of the Enforcement and Financial Crime Division at the FSA (direct line: 020 7066 9464).

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Tom Spender
Head of Department
FSA Enforcement and Financial Crime Division

STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

1. Statutory provisions

- 1.1. The FSA's regulatory objectives are set out in section 2(2) of the Act and include maintaining confidence in the financial system, the protection of consumers and the reduction of financial crime.
- 1.2. Section 41 and Schedule 6 of the Act set out the Threshold Conditions which are conditions that the FSA must ensure a firm will satisfy, and continue to satisfy, in relation to regulated activities for which it has permission.
- 1.3. The FSA is authorised by sections 45(1) and 45(2) of the Act to cancel an authorised person's Part IV permission where it appears to the FSA that such a person is failing, or likely to fail, to satisfy the Threshold Conditions.
- 1.4. Paragraph 4 of Schedule 6 to the Act sets out Threshold Condition 4 (adequate resources) which provides that the resources of the person concerned must, in the opinion of the FSA, be adequate in relation to the regulated activities that he seeks to carry on or carries on.
- 1.5. Paragraph 5 of Schedule 6 to the Act sets out Threshold Condition 5 (suitability) which provides that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances, including: (a) his connection with any person; (b) the nature of any regulated activity that he carries on or seeks to carry on; and (c) the need to ensure that his affairs are conducted soundly and prudently.

2. Regulatory provisions

- 2.1. In exercising its power to cancel a firm's Part IV permission, the FSA has had regard to relevant regulatory guidance and policy published in the FSA's Handbook.
- 2.2. The guidance and policy that the FSA considers relevant to this case is set out below.

Threshold Conditions

- 2.3. Guidance on the Threshold Conditions is set out in the Threshold Conditions manual ("COND") of the FSA Handbook.

Threshold Condition 4: Adequate resources (paragraph 4, Schedule 6 to the Act) – COND 2.4

- 2.4. COND 2.4.1UK(1) states that the resources of the person concerned must, in the opinion of the FSA, be adequate in relation to the regulated activities that he seeks to carry on, or carries on.

- 2.5. COND 2.4.2G(1) provides that Threshold Condition 4 requires the FSA to ensure that a firm has adequate resources in relation to the specific regulated activity or regulated activities which it seeks to carry on, or carries on.
- 2.6. COND 2.4.2G(2) provides that the FSA will interpret the term “adequate” as meaning sufficient in terms of quantity, quality and availability, and “resources” as including all financial resources, non-financial resources and means of managing its resources such as, for example, human resources and effective means by which to manage risks.
- 2.7. COND 2.4.3G(1) provides that when assessing this Threshold Condition, the FSA may have regard to any person appearing to it to be, or likely to be, in a relevant relationship with the firm, in accordance with section 49 of the Act (Persons connected with an applicant); for example, a firm’s controllers, its directors or partners, other persons with close links to the firm, and other persons that exert influence on the firm which might pose a risk to the firm’s satisfaction of the Threshold Conditions and would, therefore, be in a relevant relationship with the firm.

Threshold Condition 5: Suitability (paragraph 5, Schedule 6 to the Act) – COND 2.5

- 2.8. COND 2.5.1UK states that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances, including: (a) his connection with any person; (b) the nature of any regulated activity that he carries on or seeks to carry on; and (c) the need to ensure that his affairs are conducted soundly and prudently.
- 2.9. COND 2.5.2G(1) provides that Threshold Condition 5 requires the firm to satisfy the FSA that it is “fit and proper” to have Part IV permission having regard to all the circumstances, including its connections with other persons, the range and nature of its regulated activities and the overall need to be satisfied that its affairs are and will be conducted soundly and prudently.
- 2.10. COND 2.5.3G(1) provides that the emphasis of this Threshold Condition is on the suitability of the firm itself. The suitability of each person who performs a controlled function will be assessed by the FSA under the approved persons regime. In certain circumstances, however, the FSA may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.
- 2.11. COND 2.5.3G(2) permits the FSA, when assessing this Threshold Condition in relation to a firm, to have regard to any person appearing to it to be, or likely to be, in a relevant relationship with the firm, as permitted by section 49 of the Act (Persons connected with the applicant). The guidance in COND 2.5.3G(2) also refers to COND 2.4.3G, which sets out examples of persons in a relevant relationship with the firm.
- 2.12. COND 2.5.4G(1) and (2) provide that when determining whether the firm will satisfy and continue to satisfy Threshold Condition 5, the FSA will have regard to all relevant matters including whether a firm: (a) conducts, or will conduct, its business with integrity and in compliance with proper standards; or (b) has or will have a competent and prudent management.

- 2.13. COND 2.5.6G provides that in determining whether a firm will satisfy, and continue to satisfy, Threshold Condition 5 in respect of conducting its business with integrity and in compliance with proper standards, relevant matters may include whether:
- (1) the firm has contravened, or is connected with a person who has contravened, any provisions of the Act, the regulatory system or the rules, statements of principles or codes of practice (COND 2.5.6G(4); and
 - (2) the firm has taken reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory systems that apply to the firm and the regulated activities for which it has permission (COND 2.5.6G(6).
- 2.14. COND 2.5.7G provides that in determining whether a firm will satisfy, and continue to satisfy, Threshold Condition 5 in respect of having competent and prudent management, relevant matters may include whether:
- (1) the governing body of the firm is made up of individuals with an appropriate range of skills and experience to understand, operate and manage the firm's regulated activities (COND 2.5.7G(1); and
 - (2) the firm has made arrangements to put in place an adequate system of internal control to comply with the requirements and standards under the regulatory system (COND 2.5.7G(5).

Enforcement Guide ("EG")

- 2.15. The FSA's Enforcement Guide ("EG") came into effect on 28 August 2007. Although the references in this Decision Notice are to EG, the FSA has also had regard to the appropriate provisions of the FSA's Enforcement Manual, which preceded EG and applied during part of the relevant period.
- 2.16. EG 8.13(1) provides that the FSA will consider cancelling a firm's Part IV permission using its own-initiative powers contained under section 45 of the Act where the FSA has very serious concerns about a firm, or the way its business is or has been conducted.
- 2.17. EG 8.14 provides that the grounds on which the FSA may exercise its power to cancel an authorised person's permission under section 45 of the Act are set out in section 45(1). These include where it appears to the FSA that the firm is failing, or is likely to fail, to satisfy the Threshold Conditions.