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## **FINAL NOTICE**

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**To: Frank Cochran**

**Individual  
Reference  
Number: FSC00002**

**Date: 3 November 2020**

### **ACTION**

1. For the reasons given in this Notice, the Authority has decided to make an order, pursuant to section 56 of the Act, prohibiting Mr Cochran from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. The prohibition order takes effect from the date of this Notice.

### **SUMMARY OF REASONS**

2. As set out in more detail in the facts and matters described below, Mr Cochran:
  - a) was convicted by a jury on 17 April 2018 of:
    - i) sexual assault, contrary to section 2 of the Sexual Offences Act 2003;
    - ii) putting a person in fear of violence, contrary to section 4(1) of the Protection from Harassment Act 1997; and
    - iii) engaging in controlling/coercive behaviour, contrary to section 76(1) and (11) of the Serious Crime Act 2015.
  - b) was sentenced on 17 April 2018 to 7 years' imprisonment, made subject to a

Restraining Order under the Protection from Harassment Act 1997 for an indefinite period in respect of the victim and made subject to a lifelong requirement to sign the sex offenders register.

3. On the basis of the facts and matters set out below, the Authority considers that Mr Cochran is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised or exempt persons or exempt professional persons. This is because he lacks the necessary integrity and reputation required to work in the regulated financial services sector.
4. In reaching this decision, the Authority has had regard to all relevant matters, including: the seriousness of the offence and the surrounding circumstances; the relevance of the offence to Mr Cochran's role; Mr Cochran's explanation and the passage of time; any evidence of rehabilitation; and the severity of the risk posed by Mr Cochran to consumers and to confidence in financial system. The Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1 above to advance its consumer protection and market integrity operational objectives, as set out in sections 1C and 1D of the Act, respectively.

## **DEFINITIONS**

5. The definitions below are used in this Notice:

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

"the Authority" means the Financial Conduct Authority;

"CF1" means the "*director*" controlled function at an authorised firm;

"CF10" means the "*compliance oversight*" controlled function at an authorised firm;

"CF11" means the "*money laundering reporting*" controlled function at an authorised firm;

"CF30" means the "*customer dealing*" controlled function at an authorised firm;

"the Decision Notice" means the decision notice given to Mr Cochran on 1 October 2020;

"EG" means the Authority's Enforcement Guide;

"Firm A" means the formerly authorised firm at which Mr Cochran was previously approved to perform controlled functions;

"FIT" means the Authority's Fit and Proper Test for Employees and Senior Personnel;

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

“Mr Cochran” means Mr Frank Cochran;

“RDC” means the Regulatory Decisions Committee of the Authority; and

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

## **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

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

## **FACTS AND MATTERS**

7. Firm A was an authorised financial advisory firm, with permission to advise on pensions, mortgages and investments. Firm A ceased to be authorised as of 11 July 2019 and is in now in administration. Mr Cochran is a director and shareholder of Firm A.

8. Between 3 January 2006 and 17 April 2018, Mr Cochran was approved by the Authority to perform the CF1, CF10 and CF11 controlled functions at Firm A. Between 1 November 2007 and 17 April 2018, Mr Cochran was approved to perform the CF30 controlled function at Firm A. Mr Cochran was a financial adviser. Mr Cochran is not currently approved to perform any controlled or senior manager functions in relation to any firm authorised by the Authority.

9. On 17 April 2018, Mr Cochran was convicted by a jury of three offences:

- a) Sexual assault, in the period between 1 July 2016 and 28 September 2016, contrary to section 2 of the Sexual Offences Act 2003;
- b) Putting a person in fear of violence, in the period between 1 May 2011 and 28 September 2016, contrary to section 4(1) of the Protection from Harassment Act 1997; and
- c) Engaging in controlling/coercive behaviour, in the period between 29 December 2015 and 28 September 2016, contrary to section 76(1) and (11) of the Serious Crime Act 2015.

10. On 17 April 2018, Mr Cochran was sentenced to 7 years’ imprisonment and made subject to a Restraining Order under the Protection from Harassment Act 1997 for an indefinite period in respect of the victim. Mr Cochran was also made subject to a lifelong requirement to sign the sex offenders register.

11. The offending, according to the sentencing judge, involved a “*breach of trust*” and an “[a]buse of power”.

12. Through the Decision Notice, the Authority gave notice of its decision to take the action described in paragraph 1 above. Mr Cochran did not refer the matter to the Tribunal within 28 days of the date on which the Decision Notice was issued to him.
13. The Authority therefore makes an order prohibiting Mr Cochran from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm, for the reasons described above.

#### **PROCEDURAL MATTERS**

14. This Notice is given to Mr Cochran under, and in accordance with section 390 of the Act.

##### **Decision maker**

15. The decision which gave rise to the obligation to give this Notice was made by the RDC.

##### **Publicity**

16. 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. However, the Authority may not publish information if such publication would in the opinion of the Authority, be unfair to Mr Cochran, or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

##### **Contact**

17. For more information concerning this matter generally, contact Hema Rachhoya (direct line: 020 7066 2770) of the Enforcement and Market Oversight Division of the Authority.

**Anna Couzens**  
**Manager, Threshold Conditions Team**  
**Enforcement and Market Oversight Division**  
**Financial Conduct Authority**

## **ANNEX A**

### **RELEVANT STATUTORY PROVISIONS**

1. Section 1B of the Act provides that in discharging its general functions, the Authority must so far as is reasonably possible, act in a way which is compatible with its strategic objectives and advances one or more of its operational objectives.
2. The Authority's strategic objective is to ensure that "*relevant markets function well*" (section 1B(2) of the Act) and its 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).
3. Section 56 of the Act provides:
  - (1) "*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.*"
  - [...]
  - (3) "*A prohibition order may relate to –*
    - (a) *a specified regulated activity, any regulated activity falling within a specified description or all regulated activities*".

### **RELEVANT REGULATORY PROVISIONS**

4. 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**

5. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
6. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.

7. 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 should be taken or has been taken already against the individual by the Authority or other enforcement agencies;
- (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 the range of regulated activities to which the individual's lack of fitness and propriety is relevant; and
- (c) 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.

8. EG 9.3.2 states that, when the Authority decides to make a prohibition order against an approved person, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to:

- (a) 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);
- (b) the relevance and materiality of any matters indicating unfitness;
- (c) the length of time since the occurrence of any matters indicating unfitness;
- (d) the particular controlled function the approved person is (or was) performing, the nature and activities of the firm concerned and the markets in which he operates; and
- (e) the severity of the risk which the individual poses to consumers and to confidence in the financial system.

9. EG 9.3.4 states that owing to the "*diverse nature of the activities and functions which the [Authority] regulates, it is not possible to produce a definitive list of matters which the [Authority] might take into account when considering whether an individual is not a fit and proper person to perform a particular, or any, function in relation to a particular,*

or any, firm”.

10. EG 9.5.1 states that, when the Authority is considering making a prohibition order against an individual that is not an approved person, it will consider the severity of the risk posed by the individual and may prohibit them where it considers this is appropriate to achieve one or more of its statutory objectives.
11. EG 9.5.2 provides that, when considering whether to exercise its power to make a prohibition order against someone who is not an approved person, 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.

### **Fit and Proper Test for Employees and Senior Personnel**

12. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
13. FIT 1.3.1BG states that the most important considerations when assessing the fitness and propriety of a person will be the person’s: (1) honesty, integrity and reputation; (2) competence and capability; and (3) financial soundness. A person only has to be deemed lacking in one of the three areas in order to be deemed not to be fit and proper.
14. 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. The FCA will consider the circumstances only where relevant to the requirements and standards of the regulatory system. It states (referring specifically to an application for approval, though still applicable in the present context) 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 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.”*

15. FIT 2.1.2G states *“...the [Authority] will look at whether the person’s reputation might have an adverse impact upon the firm for which the controlled function is or is to be performed and at the person’s responsibilities.”*
16. FIT 2.1.3G(1) states that the Authority will have regard to matters, including but not limited to *“whether the person has been convicted of any criminal offence [....] particular*

*consideration will be given to offences of dishonesty, fraud, financial crime or an offence under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking, other financial services, insolvency, consumer credit companies, insurance, consumer protection, money laundering, market manipulation and insider dealing, whether or not in the United Kingdom".*

17. FIT 2.1.3G(4) states that the Authority will have regard to matters, including but not limited to *"...whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings"*.

18. FIT 2.1.3G(13) states that the Authority will have regard to matters, including but not limited to *"...whether, in the past, the person has been candid and truthful in all their dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards."*