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## FINAL NOTICE

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To: Pave Financial Management Limited  
2 The Office Village  
Roman Way, Bath Business Park  
Peasedown St John  
Bath BA2 8SG

Firm ref: 435205

Date: 22 March 2013

**TAKE NOTICE: The Financial Services Authority of 25 the North Colonnade, Canary Wharf, London E14 5HS (the “FSA”) gives final notice about the following action:**

### **1. ACTION**

- 1.1. For the reasons given in this Final Notice, and pursuant to section 45 of the Financial Services and Markets Act 2000 (the “Act”), the FSA hereby cancels the permission granted to Pave Financial Management Limited (“Pave”) pursuant to Part IV of the Act to carry on regulated activities.

## **2. REASONS FOR THE ACTION**

- 2.1. The FSA concluded, on the basis of the facts and matters set out in section 4 below, that Pave is failing, or is likely to fail, to satisfy the threshold conditions set out in Schedule 6 to the Act (the “Threshold Conditions”).

## **3. RELEVANT STATUTORY AND REGULATORY PROVISIONS**

### **The Act**

- 3.1. The FSA’s statutory objectives, set out in section 2(2) of the Act, are: market confidence; financial stability; the protection of consumers; and the reduction of financial crime.
- 3.2. The FSA has the power pursuant to section 45(2) of the Act to cancel an authorised person's Part IV permission where it appears that an authorised person is failing, or likely to fail, to satisfy the Threshold Conditions.

### **Regulatory requirements and guidance**

- 3.3. In taking this action, the FSA had regard to relevant guidance published in the section of the FSA Handbook that deals with the Threshold Conditions (“COND”) and the guidance set out in the regulatory guides, in particular in the Enforcement Guide (“EG”).
- 3.4. Within the Annex to this Notice, the relevant statutory provisions and regulatory requirements are set out in more detail.

## **4. FACTS AND MATTERS RELIED ON**

### **Background**

- 4.1. By a Decision Notice dated 3 November 2011 issued to Mr Timothy Simon Pattison (“Mr Pattison”), the FSA decided to:
- (1) impose a financial penalty of £90,000, pursuant to section 66 of the Act, in respect of Mr Pattison’s contravention of Statement of Principle 1, 2 and 7 of

the FSA's Statements of Principle for Approved Persons ("Statements of Principle");

- (2) withdraw Mr Pattison's approval to perform controlled functions in relation to Pave pursuant to section 63 of the Act; and
- (3) make an order, pursuant to section 56 of the Act, prohibiting Mr Pattison from performing any controlled function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm because he was not a fit and proper person in terms of a lack of integrity and a lack of competence and capability.

4.2. By a Decision Notice dated 3 November 2011 issued to Mr Stephen Hocking ("Mr Hocking"), the FSA decided to:

- (1) publish a statement of Mr Hocking's misconduct, pursuant to section 66 of the Act, in respect of Mr Hocking's contravention of the FSA's Statements of Principle 1, 2 and 7. The FSA considered that Mr Hocking's misconduct merited a financial penalty of £25,000. However, the FSA decided not to impose such a financial penalty as it would cause Mr Hocking serious financial hardship;
- (2) withdraw Mr Hocking's approval to perform controlled functions in relation to Pave, pursuant to section 63 of the Act; and
- (3) make a order, pursuant to section 56 of the Act, prohibiting Mr Hocking from performing any significant influence function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm because he is not a fit and proper person in terms of a lack of integrity and a lack of competence and capability.

4.3. By a Decision Notice dated 3 November 2011, the FSA decided to cancel Pave's Part IV permission. Having regard to all the circumstances, including Pave's connection with Mr Pattison and Mr Hocking and the overall need to ensure that its affairs are conducted soundly and prudently, the FSA considered that, contrary to Threshold

Condition 5, Pave did not have competent and prudent management and could not demonstrate that it conducted or would conduct its affairs with:

- (1) integrity and in compliance with proper standards; and
- (2) the exercise of due skill, care and diligence.

- 4.4. Since Mr Pattison's and Mr Hocking's approvals were to be withdrawn and they were to be prohibited due to a lack of fitness and propriety, the FSA also concluded that Pave would be failing to satisfy Threshold Condition 4 in that, in the opinion of the FSA, the firm would not have adequate resources in relation to the regulated activities it sought to carry on or carries on. Specifically, Pave would not have adequate human resources.
- 4.5. Pave, Mr Pattison and Mr Hocking referred their Decision Notices to the Upper Tribunal (the "Tribunal"). The references were all consolidated and due to be heard together. However, Mr Pattison died before the hearing could take place and the FSA subsequently discontinued its action against Mr Pattison. Mr Hocking decided, given his financial circumstances and Mr Pattison's death, that he was unwilling to proceed with his reference. He therefore withdrew his reference and the Tribunal gave its consent to the withdrawal. Pave also withdrew its reference.
- 4.6. By a Final Notice dated 22 March 2013, the FSA therefore withdrew Mr Hocking's approval to perform controlled functions in relation to Pave and made an order prohibiting him from performing any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm, on the grounds that he is not a fit and proper person in terms of a lack of integrity and a lack of competence and capability.
- 4.7. As a result, having regard to all the circumstances including Pave's connection with Mr Hocking and the overall need to ensure that its affairs are conducted soundly and prudently, the FSA concludes that, contrary to Threshold Condition 5, Pave does not have competent and prudent management and cannot demonstrate that it conducts or will conduct its affairs with:

(1) integrity and in compliance with proper standards; and

(2) the exercise of due skill, care and diligence.

4.8. Furthermore, in the wake of Mr Pattison's death and the withdrawal of Mr Hocking's approval and his prohibition (on the basis he is not fit and proper) Pave is failing to satisfy Threshold Condition 4 in that, in the opinion of the FSA, the firm does not have adequate resources in relation to the regulated activities it seeks to carry on or carries on. Specifically, Pave does not have adequate human resources.

## **5. REPRESENTATIONS, FINDINGS AND CONCLUSIONS**

### **Representations**

5.1. Mr Pattison and Mr Hocking made representations on their own behalf, though their representations were also effectively made on behalf of Pave as no independent representations were made by Pave. The lack of separate representations from Pave reflected the fact that the FSA's Decision Notice to cancel Pave was dependent upon the decisions that the FSA made in the cases of Mr Hocking and Mr Pattison.

### **Findings**

5.2. As a consequence of Mr Pattison's death and of the Final Notice given to Mr Hocking, Pave does not have adequate human resources in relation to the regulated activities it seeks to carry on. Furthermore Pave does not have competent and prudent management and it cannot demonstrate that it conducts, or will conduct, its affairs with integrity or with due skill care and diligence.

### **Conclusion**

5.3. In the light of the foregoing, the FSA has concluded that Pave is failing to meet Threshold Conditions 4 (Adequate Resources) or 5 (Suitability) and that it will continue to fail to meet these conditions.

## **6. ANALYSIS OF THE SANCTION**

6.1. In light of the facts and matters set out, it appears that Pave is failing and is likely to

fail Threshold Conditions 4 and 5. Consequently, the FSA hereby cancels Pave's part IV permission.

**7. DECISION MAKER**

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

7.2. This Final Notice is given under, and in accordance with, section 390 of the Act.

**Publicity**

7.3. 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 FSA must publish such information about the matter to which this 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 you or prejudicial to the interests of consumers.

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

**FSA contacts**

7.5. For more information concerning this matter generally, contact Rebecca Irving (direct line: 020 7066 2334) of the FSA's Enforcement and Financial Crime Division.

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**Bill Sillett**  
**Enforcement and Financial Crime Division**  
**Financial Services Authority**

## ANNEX A

### RELEVANT STAUTORY PROVISIONS, REGULATORY REQUIREMENTS AND FSA GUIDANCE

#### 1. The Act

- 1.1. Section 41 and Schedule 6 to 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.
- 1.2. Paragraph 4 of Schedule 6 to the Act 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 (Threshold Condition 4: Adequate Resources).
- 1.3. Paragraph 5 of Schedule 6 to the Act 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 (Threshold Condition 5: Suitability).
- 1.4. The FSA is authorised, pursuant to section 45 of the Act, to cancel an authorised person's Part IV permission where it appears that an authorised person is failing, or likely to fail, to satisfy the Threshold Conditions.

#### 2. FSA's policy on exercising its power to cancel a Part IV permission

- 2.1. The FSA's policy on exercising its power to cancel a Part IV permission is set out in Chapter 8 of the Enforcement Guide ("EG").
- 2.2. EG 8.13(1) states that the FSA will consider cancelling a firm's Part IV permission in circumstances including where the FSA has very serious concerns about a firm, or the way its business is or has been conducted.
- 2.3. EG 8.14 sets out general grounds for the exercise of the section 45 power to cancel a Part IV permission. It states 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) (which includes, where it appears to the FSA that the authorised person is failing, or is likely to fail, to satisfy the threshold conditions in relation to one or more, or all, of the regulated activities for which the authorised person has Part IV permission).

**3. Guidance on Threshold Condition 4: Adequate resources (Paragraph 4, Schedule 6 to the Act) – COND 2.4**

- 3.1. COND gives guidance on the Threshold Conditions set out in Schedule 6 to the Act (COND 1.2.1G).
- 3.2. COND 2.4.1UK 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.
- 3.3. 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.
- 3.4. 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 over 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.
- 3.5. COND 2.4.4G(1) states that the FSA will have regard to all relevant matters which includes at (d) whether the firm has taken reasonable steps to identify and measure any risks of regulatory concern that it may encounter in conducting its business and has installed appropriate systems and controls and appointed appropriate human resources to measure them prudently at all times.
- 3.6. COND 2.4.5G states that in complying with SYSC 5 (Systems and controls), a firm

should plan its business appropriately so that it is able to identify, measure and manage the likely risks of regulatory concern it will face.

**4. Guidance concerning Threshold Condition 5: Suitability (paragraph 5, Schedule 6 to the Act) – COND 2.5**

- 4.1. 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.
- 4.2. 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 connection with other persons, the range of its regulated activities and the overall need to be satisfied that its affairs are and will be conducted soundly and prudently.
- 4.3. COND 2.5.3G(1) further provides that the emphasis of the Threshold Conditions 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). However, 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, including 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.
- 4.4. COND 2.5.4G provides that in determining whether the firm will satisfy and continue to satisfy Threshold Condition 5, the FSA will have regard to all relevant matters arising including whether a firm has or will have a competent and prudent

management (COND 2.5.4G(2)(b)) and whether it can demonstrate that it conducts, or will conduct, its business with integrity, with due skill, care and diligence and in compliance with proper standards (COND 2.5.4G(2)(a) and (c)).

4.5. COND 2.5.6G, in giving guidance on the interpretation of 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, gives examples of relevant matters which include:

- (1) whether the firm has been open and co-operative in all its dealings with the FSA, and is ready willing and organised to comply with the requirements under the regulatory system (COND 2.5.6G(1));
- (2) whether the firm has contravened, or is connected with any person who has contravened any provisions of the Act or the regulatory system (COND 2.5.6G(4)); and
- (3) whether the firm has taken reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system applicable to it (COND 2.5.6G(6)).

4.6. COND 2.5.7G provides guidance on the matters that are relevant to determining a firm satisfying and continuing to satisfy Threshold Condition 5 in respect of it having competent and prudent management and exercising due skill, care and diligence. Such matters include whether the firm has conducted enquiries that are sufficient to give it reasonable assurance that it will not be posing unacceptable risks to consumers or the financial system (COND 2.5.7G(9)).