
FINAL NOTICE

To: **Mr Muhammad Asim Iqbal**

Of: **555 Barking Road
London
E6 2LW**

Individual ref: **MAI01016**

Date of birth:



Date: **13 June 2008**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about an order prohibiting you, Muhammad Asim Iqbal, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm

1. THE ORDER

- 1.1. The FSA gave you a Decision Notice dated 13 June 2008 (the “Decision Notice”) which notified you that the FSA had decided to withdraw the approval given to you to

perform controlled functions and, pursuant to section 56 of the Financial Services and Markets Act 2000 (the “Act”), to make a prohibition order against you to prevent you from carrying out any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm (“the Prohibition Order”).

- 1.2. You agreed that you would not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. Accordingly, for the reasons set out below, the FSA hereby withdraws the approval given to you to perform controlled functions, and makes an order pursuant to section 56 of the Act prohibiting you from performing any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm. The Prohibition Order takes effect from 13 June 2008.

2. REASONS FOR THE ORDER

- 2.1. The FSA has concluded that you are not fit and proper to carry out any functions in relation to regulated activities carried on by any authorised person, exempt person or exempt professional firm and you should be prohibited from doing so.
- 2.2. On the basis of the facts and matters summarised below, and set out in more detail in section 4 of this notice, the FSA has concluded that you have failed to meet minimum regulatory standards in terms of honesty and integrity, which includes an obligation to comply with the requirements and standards of the regulatory system and to be candid and truthful in all your dealings with any regulatory body.
- 2.3. You pose a risk to lenders and therefore to confidence in the financial system. Also this action has been taken against you in support of the FSA’s financial crime objective.
- 2.4. In summary, mortgage applications submitted by you to lenders were based on false information of such a nature and in such circumstances that, in the FSA's opinion, you

must have been aware that the information was false. For example, nine sets of applicants' accounts used in support of customers' mortgage applications contained identical figures, despite the accounts being for different types of business and apparently being prepared by three different accountants. It was evident that OCS had seen these accounts and forwarded them to lenders in support of mortgage applications.

- 2.5. You also provided the FSA with false and misleading information about the nature of sales undertaken by OCS (i.e. advised or non-advised) and the number of accounts that OCS sent to lenders.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

Statutory provisions

- 3.1. The FSA's statutory objectives, set out in Section 2(2) of the Act, include the reduction of financial crime and maintaining confidence in the financial system.
- 3.2. The FSA has the power, by virtue of section 56 of the Act, to make an order prohibiting you from performing a specified function, any function falling within a specified description, or any function, if it appears to the FSA that you are not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person. Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description or all regulated activities.

FSA's policy for exercising its power to make a prohibition order

- 3.3. The FSA's approach to exercising its powers to withdraw approval and to make prohibition orders is set out at Chapter 9 of the Enforcement Guide ("EG"). EG9.1 states that the FSA's power under sections 56 and 63 of the Act helps it work towards achieving its regulatory objectives. The FSA may exercise this power where it considers that, to achieve any of those objectives, it is necessary either to prevent an

individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.

- 3.4. EG 9.4 sets out the general scope of the FSA's powers in this respect, which include 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. EG 9.5 provides that the scope of a prohibition order will vary according to 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.
- 3.5. In circumstances where the FSA has concerns about the fitness and propriety of an approved person, EG 9.8 to 9.14 provides guidance. In particular, EG 9.8 states that the FSA may consider whether it should prohibit that person from performing functions in relation to regulated activities, withdraw that person's approval or both. In deciding whether to withdraw approval and/or make a prohibition order, the FSA will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.
- 3.6. EG 9.9 states that the FSA will consider all the relevant circumstances when deciding whether to make a prohibition order against an approved person and/or to withdraw that person's approval. Such circumstances may include, but are not limited to, the following factors:
- (1) the matters set out in section 61(2) of the Act;
 - (2) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety are set out in the module of the FSA Handbook entitled "the Fit and Proper Test for Approved Persons" ("FIT"), in particular in FIT 2.1 (Honesty, integrity and reputation), FIT2.2 (Competence and capability) and FIT 2.3 (Financial soundness);

- (3) whether, and to what extent, the approved person has:
 - (a) failed to comply with the Statements of Principle issued by the FSA with respect to the conduct of approved persons; or
 - (b) been knowingly concerned in a contravention by the relevant firm of a requirement imposed on the firm by or under the Act (including the Principles and other rules);
- ...
- (5) the relevance and materiality of any matters indicating unfitness;
- (6) the length of time since the occurrence of any matters indicating unfitness;
- (7) 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
- (8) the severity of the risk which the individual poses to consumers and to confidence in the financial system.

3.7. EG 9.12 provides a number of examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or withdraw the approval of an approved person. The examples include:

- ...
- (3) severe acts of dishonesty, for example those which may have resulted in financial crime; and
- ...
- (5) serious breaches of the Statements of Principle and Code of Practice for Approved Persons, such as providing misleading information to clients, consumers or third parties.

Regulatory Requirements

Fit and Proper Test for Approved Persons

- 3.8. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function and FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 3.9. In this instance the criteria set out in FIT are relevant in considering whether the FSA may exercise its powers to make a prohibition order against an individual in accordance with EG 9.9.
- 3.10. FIT 1.3 provides that the FSA will have regard to a number of factors when assessing a person's fitness and propriety. One of the most important considerations will be the person's honesty, integrity and reputation.
- 3.11. In determining a person's honesty, integrity and reputation, FIT 2.1 provides that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3G. The guidance includes:
- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G(5)); and
 - (2) whether, in the past, the person has been candid and truthful in all his 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 (FIT 2.1.3G(13)).

The Statements of Principle and Code of Practice for Approved Persons

- 3.12. The Statements of Principle and Code of Practice for Approved Persons ("APER") set out the Statements of Principle in respect of approved persons and conduct which, in the opinion of the FSA, constitutes a failure to comply with them. They also describe

factors to be taken into account by the FSA in determining whether an approved person's conduct complies with a particular Statement of Principle.

3.13. APER 3.1.3G states that, when establishing compliance with, or breach of, a Statement of Principle, account will be taken of the context in which a course of conduct was undertaken, the precise circumstances of the individual case, the characteristics of the particular controlled function and the behaviour expected in that function. APER 3.1.4G states that an approved person will only be in breach of a Statement of Principle if they are personally culpable, that is, in a situation where their conduct was deliberate or where their standard of conduct was below that which would be reasonable in all the circumstances.

3.14. In this case, the FSA considers the most relevant Statement of Principle to be Statement of Principle 1.

Statement of Principle 1

3.15. Statement of Principle 1 requires an approved person to act with integrity in carrying out their controlled function.

3.16. APER 4.1 sets out a number of examples of behaviour which the FSA considers constitute a failure to comply with Statement of Principle 1. APER 4.1.3E states that deliberately misleading (or attempting to mislead) by act or omission either a client or the FSA does not comply with Statement of Principle 1. Specific examples of such conduct are set out in APER 4.1.4E and include providing false or inaccurate documentation or information, or deliberately falsifying documents. In considering a person's integrity the FSA may also have regard to whether that person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G(5)).

4. FACTS AND MATTERS RELIED ON

- 4.1. You are an approved person and a director of OCS Property and Financial Services Limited ("OCS"). You became approved by the FSA on 31 May 2005 to perform the controlled functions of CF1 (Director) and CF8 (Apportionment and Oversight). You are the only approved person at OCS responsible for and giving mortgage advice. The other director of OCS is Muhammad Adnan Ashraf.

False mortgage applications

- 4.2. The FSA reviewed 29 mortgage applications submitted to three lenders by OCS, all of which were drawn to the FSA's attention by the lenders.
- 4.3. Of these 29 mortgage applications, nine applications were accompanied by eleven sets of accounts. Nine sets of accounts were presented in an identical format, despite apparently being produced by three different accountants. At least eight of these sets of accounts were provided to the lenders directly by OCS.
- 4.4. As explained below, many of the accounts supplied to the lenders contained identical figures for running costs and expenses.
- (1) In five sets of accounts (apparently produced by two different accountants), the same expense figure for ten different expense categories had been entered for two consecutive accounting periods, despite being accounts for different types of businesses.
 - (2) In nine sets of accounts (apparently produced by three different accountants), there were identical figures for "Plant and Machinery at Cost", which seemed highly improbable given that the accounts related to very different types of business (such as builder, IT consultant and tutor).

- 4.5. One accountant, who apparently produced five sets of accounts, operated from the home address of Muhammad Ashraf. Another accountant operated from Mr Ashraf's previous home address, of which he was the owner.
- 4.6. In all the applications where a monthly ISA payment was disclosed as a vehicle to repay capital for an interest only mortgage (13 in total), the applicants had stated that they made payments of either £583 or £584 per month, despite differing loan amounts. While these payments may equate to maximum limits for such an ISA, taking into account all the other information obtained by the FSA (including the applicants' earnings as declared to Her Majesty's Revenue and Customs), it is highly likely that the same sets of figures were used for different applicants, for convenience.
- 4.7. In total, 28 of the applications reviewed by the FSA were for self-employed individuals. The FSA has not been able to find any record of 24 of the businesses disclosed in the mortgage applications.
- 4.8. The employment and income details provided in applications for 15 individuals were checked against HMRC's records. In only one case did income details on the mortgage applications correspond to the information that the applicants' had reported to HMRC.
- 4.9. Given the facts summarised in paragraphs 4.2 to 4.8 above, and in particular the number and obvious nature of the inconsistencies in information provided by OCS to lenders, the FSA has concluded that it is likely that you were knowingly involved in the submission of false mortgage applications.

False and misleading statements

- 4.10. In a taped interview, you told the FSA that OCS only completed sales on a non-advised basis. According to product sales data for OCS, provided by lenders, for the period 1 April 2007 to 30 September, approximately 27% of completed mortgage applications during the period were advised sales. As you were the only mortgage

adviser at OCS, you must have known that OCS undertook advised sales or, at the very least, that you recorded them as advised sales on mortgage applications.

- 4.11. You also told the FSA that OCS rarely sent accounts to lenders on behalf of customers and that the number of such occasions was “ignorable”. We found evidence from our small sample that eight sets of accounts has been sent to the lender by OCS under the cover of letters from OCS, and that two further sets were sent by fax by OCS to lenders (because the lenders’ versions had OCS’ fax details on them).

5. ANALYSIS OF THE SANCTION

- 5.1. The FSA has concluded that the conduct summarised above represents a serious failure by you to comply with Statement of Principle 1 of the Statements of Principle for Approved Persons. You must have been knowingly involved as an approved person in the submission of false mortgage applications and you made false or misleading statements to the FSA’s investigators in a compelled interview. Your failure to be candid and truthful goes beyond a failure to be open and co-operative.
- 5.2. The FSA has therefore concluded that you have failed to meet minimum regulatory standards in respect of honesty and integrity, and you are not therefore fit and proper to carry out any functions in relation to any regulated activities carried on by any authorised person, exempt person, or exempt professional person.
- 5.3. Given the severity of the risk posed by you to lenders and therefore to confidence in the financial system, and given the FSA’s financial crime objective, it is necessary in order to achieve its regulatory objectives, for the FSA to withdraw your individual approval and to exercise its power to make a Prohibition Order against you.

6. DECISION MAKERS

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

7. IMPORTANT

7.1. This Final Notice is given to you 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 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.

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

FSA contacts

7.4. For more information concerning this matter generally, you should contact Chris Walmsley at the FSA (direct line: 020 7066 5894 /fax: 020 7066 5895).

Jonathan Phelan
Head of Department
FSA Enforcement Division