
FINAL NOTICE

To: Jonathan Mathew

Individual Reference Number: JJM01142

Date: 30 October 2018

ACTION

1. For the reasons given in this Notice and pursuant to Section 56 of the Act, the Authority hereby makes an order prohibiting Jonathan Mathew from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm.
2. The prohibition order takes effect from the date of this Notice.

REASONS FOR THE ACTION

3. As set out in more detail in the facts and matters described below, Mr Mathew:
 - (1) was convicted on 29 June 2016 of one count of conspiracy to defraud in respect of fixing the USD LIBOR; and
 - (2) was sentenced on 7 July 2016 to four years' imprisonment.
4. In view of the facts and matters set out below, the Authority has concluded that Mr Mathew is not a fit and proper person to perform any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. His conviction demonstrates a clear and serious lack of honesty and integrity such that he is not fit and proper to perform functions in relation to regulated activities.

5. In reaching this conclusion, the Authority has had regard to all relevant circumstances, including: the relevance and materiality of the offence; the fact that Mr Mathew has been convicted of an offence of dishonesty concerning financial crime and market manipulation; the fact that the offence was committed whilst he was approved as an individual by the Authority; and the severity of the risk posed by Mr Mathew to consumers and financial institutions, and to confidence in the market generally.
6. The Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1 to achieve its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

DEFINITIONS

7. The definitions below are used in this Notice:

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

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

"Barclays" means Barclays Bank PLC and its associated entities;

"CCRC" means the Criminal Cases Review Commission;

"EG" means the Authority's Enforcement Guide;

"FIT" means the Authority's Fit and Proper test for Approved Persons;

"LIBOR" means the London Interbank Offered Rate;

"Panel Bank" means a bank with a place on the British Bankers Association panel contributing LIBOR submissions in one or more currencies;

"SFO" means the Serious Fraud Office;

"Tribunal" means the Upper Tribunal (Tax and Chancery Chamber);

"USD" means United States Dollar.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

8. The statutory and regulatory provisions relevant to this Notice are set out in Annex A.

FACTS AND MATTERS

9. Mr Mathew was approved by the Authority to perform the following controlled functions:
 - (1) CF21 (Investment Adviser) between 1 December 2001 and 31 October 2007; and
 - (2) CF30 (Customer) between 1 November 2007 and 28 September 2012.
10. On 6 March 2013, the Authority gave Mr Mathew a Warning Notice proposing to impose sanctions against him relating to the facts and matters forming the criminal count of conspiracy to defraud (set out in paragraph 13 below). The regulatory proceedings against Mr Mathew were stayed in June 2013 at the request of the SFO pending a decision as to whether Mr Mathew was to face criminal charges.
11. On 17 February 2014, the SFO charged Mr Mathew with the offence described in paragraph 13 below.
12. On 29 June 2016, Mr Mathew was convicted on indictment at Southwark Crown Court of one count of conspiracy to defraud in respect of fixing the USD LIBOR.
13. The single count upon which Mr Mathew was convicted involved him, between 1 June 2005 and 1 September 2007, whilst an employee of Barclays, conspiring, together with other employees of Barclays, to defraud in that:
 - (1) knowing or believing that Barclays was a party to trading referenced to USD LIBOR;
 - (2) they dishonestly agreed to procure or make submissions of rates by Barclays, a Panel Bank, into the USD LIBOR setting process which were false or misleading in that they:
 - (a) were intended to create an advantage to the trading of employees of Barclays; and
 - (b) deliberately disregarded the proper basis for the submission of those rates,thereby intending to prejudice the economic interests of others.
14. On 7 July 2016, Mr Mathew was sentenced to four years' imprisonment. He was also made subject to a confiscation order under the Proceeds of Crime Act 2002 for £34,700.44.

REPRESENTATIONS

15. Annex B contains a brief summary of the key representations made by Mr Mathew and how they have been dealt with. In making the decision which gave rise to the obligation to give this Notice, the Authority has taken into account all of the representations made by Mr Mathew, whether or not set out in Annex B.

PROCEDURAL MATTERS

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

Decision Maker

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

Confidentiality and Publicity

18. 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. 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 you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
19. The Authority intends to publish such information about the matter to which this Notice relates as it considers appropriate.

Authority Contacts

20. For more information concerning this matter generally, contact Nicholas Hills (direct line: 020 7066 4162) at the Authority.

Mark Francis

Director, Enforcement and Market Oversight Division

Financial Conduct Authority

ANNEX A

RELEVANT STATUTORY AND REGULATORY 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. The Authority has the power, pursuant to section 56 of the Act, to make a prohibition order if it appears to the Authority that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, exempt person or exempt professional firm. Pursuant to section 56(2) of the Act, such an order may relate to a specified function, any function falling within a specified description or any function.
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 Fit and Proper test for Approved Persons ("FIT")

4. FIT sets out the criteria for assessing a person's fitness and propriety.
5. FIT 1.3.1BG(1) states that the Authority will have regard to, among other things, a person's honesty and integrity when assessing the fitness and propriety of a person to perform a particular controlled function.
6. FIT 1.3.3G states that the criteria listed in FIT 2.1 to FIT 2.3 are guidance and will be applied in general terms where the Authority is determining a person's fitness and propriety, and that it would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination.
7. 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 which may have arisen either in the United Kingdom or elsewhere. The Authority should be informed of these matters, but will consider the circumstances only where relevant to the requirements and standards of the regulatory system. This includes, for example, under FIT 2.1.3G(1), the fact that a 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.
8. FIT 2.1.3G states that the matters referred to in FIT 2.1.1G to which the Authority will have regard, include (but are not limited to) whether the person has been convicted of any criminal offence, with particular consideration being given to offences of dishonesty, financial crime, market manipulation and insider dealing.

Prohibition order

9. The Authority's approach to deciding whether to impose a prohibition order, and the scope of any such prohibition order, is set out in chapter 9 of EG.
10. EG 9.1 sets out how the Authority's power to make a prohibition order under section 56 of the Act helps it work towards achieving its statutory objectives. The Authority may exercise this power where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.
11. EG 9.2.1 states that, in deciding whether to make a prohibition order, the Authority will consider all the relevant circumstances including whether other enforcement action should be taken or has been taken already against that individual by the Authority.
12. 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. Depending on the circumstances of each case, the Authority may seek to: prohibit individuals from performing any class of function in relation to any class of regulated activity; limit the prohibition order to specific functions in relation to specific regulated activities; or make an order prohibiting an individual from being employed by a particular firm, type of firm or any firm.
13. 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.
14. EG 9.5.1 states that, where the Authority is considering making a prohibition order against an individual who is not an approved person, the Authority will consider the severity of the risk posed by the individual, and may prohibit the individual where it considers this is appropriate to achieve one or more of its statutory objectives.
15. EG 9.5.2 states 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, which may include (but are not limited to), where appropriate, the factors set out in paragraph 9.3.2. Those factors include: 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); 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.

ANNEX B

1. Mr Mathew's representations (in italics), and the Authority's conclusions in respect of them, are set out below.

Criminal conviction

2. *Given that the prohibition order would be made specifically on the basis of the criminal conviction, Mr Mathew accepts that at the present time, and unless and until his conviction is quashed, he is not able to contest the making of the order. Mr Mathew recognises that he would first have to overturn his conviction and then return to the Authority to seek removal of any prohibition.*
3. *However, Mr Mathew does not accept the guilty verdict reached by the jury or that he acted dishonestly. He intends to re-apply to the CCRC for his case to be referred back to the Court of Appeal.*
4. *When Mr Mathew repeatedly received requests from swap traders in relation to the LIBOR submission he sought advice from a very senior and experienced colleague on what he should do. He was told that, as long as the submission stayed within the acceptable range, such requests should be taken into account. Mr Mathew followed these instructions. Given such advice from a senior colleague and that this practice was widely and openly followed throughout the industry, at no point did Mr Mathew believe that he was acting dishonestly.*
5. As accepted by Mr Mathew, the reason for the present action by the Authority is that Mr Mathew's criminal conviction for an offence of dishonesty demonstrates that he is not fit and proper to perform functions related to regulated activities.
6. The points raised by Mr Mathew in relation to his conduct have already been put to and rejected by the jury at his trial, which resulted in a conviction for an offence of dishonesty. The safety of the conviction has been reviewed by a single judge of the Court of Appeal, a full court of the Court of Appeal and the CCRC, none of whom have considered that it meets the test for review. Further, the judge presiding over Mr Mathew's trial heard all the evidence put forward by the Crown and Mr Mathew, and considered that a significant custodial sentence was commensurate with the seriousness of the offence. Consequently, the Authority considers that, in all the circumstances, the dishonest nature of Mr Mathew's actions and the seriousness of his offence may not be called into question in the present proceedings.
7. Mr Mathew has the right under the Act to apply for the variation or revocation of a prohibition order. If he does so, the Authority will, when making a decision on such an application, carefully consider his application and will have regard to all the circumstances at that stage, including whether Mr Mathew has been successful in having his conviction overturned.

Time elapsed since the offence

8. *The events for which Mr Mathew was tried took place more than a decade ago, between 2005 and 2007.*
9. Mr Mathew was sentenced to four years' imprisonment for a serious offence of dishonesty, involving financial crime and market manipulation. He served two years in custody and has recently been released on licence for the remainder of the sentence. Although the offence happened some time ago, its seriousness and the severity of the risk which Mr Mathew poses to consumers and to confidence in the financial system are such that the Authority considers that it is appropriate to impose a prohibition order.

Mr Mathew does not intend to work in financial services

10. *Mr Mathew recognises that, regardless of whether the Authority imposes a prohibition order, there is no prospect of him working within the financial services industry ever again, and nor does he have any desire to do so.*
11. The Authority is not required to satisfy itself that Mr Mathew has an intention to work in the financial services industry. The assertion that he does not have any desire to do so is not an adequate substitute for, or alternative to, a prohibition order.