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**FINAL NOTICE**

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**To:** **Kweku (also known as Kwaku) Mawuli Adoboli**

**Individual Reference Number:** **KMA01036**

**Dated:** **16 October 2015**

**ACTION**

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Adoboli.
2. The Authority gave Mr Adoboli the Decision Notice, which notified Mr Adoboli that, for the reasons given below and pursuant to section 56 of the Act, the Authority had decided to make an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
3. Mr Adoboli has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
4. Accordingly, for the reasons set out below, the Authority hereby makes an order pursuant to section 56 of the Act prohibiting Mr Adoboli from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm. The Prohibition Order takes effect from 16 October 2015.

**DEFINITIONS**

5. The definitions below are also used in this Final 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;

“the Decision Notice” means the Decision Notice given to Mr Adoboli dated 4 September 2015;

“EG” means the Enforcement Guide;

“FIT” means the Fit and Proper Test for Approved Persons sourcebook;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“Mr Adoboli” means Kweku (also known as Kwaku) Mawuli Adoboli;

“the Prohibition Order” means the order prohibiting Mr Adoboli, pursuant to section 56 of the Act, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm; and

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

#### **RELEVANT STATUTORY PROVISIONS**

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

#### **SUMMARY OF REASONS**

7. The Authority has concluded, on the basis of the facts and matters and conclusions described in the Warning Notice issued to Mr Adoboli on 2 June 2015, and in the Decision Notice, that Mr Adoboli is not a fit and proper person to perform any functions as his conduct demonstrates a serious lack of honesty, integrity and reputation. Specifically, on 20 November 2012, Mr Adoboli was convicted of two counts of fraud by abuse of position, contrary to sections 1 and 4 of the Fraud Act 2006, for which offences he was sentenced on the same day to four and seven years’ imprisonment respectively, to be served concurrently.

#### **FACTS AND MATTERS RELIED ON**

8. Mr Adoboli was approved by the Authority, in relation to UBS AG, to perform the CF30 (Customer) controlled function between 1 November 2007 and 15 September 2011.
9. On 20 November 2012 Mr Adoboli was convicted on indictment at Southwark Crown Court of two counts of fraud by abuse of position, contrary to sections 1 and 4 of the Fraud Act 2006.
10. On the same day Mr Adoboli was sentenced to four and seven years’ imprisonment respectively for these offences, to be served concurrently.
11. Further, the offences:

- were committed when Mr Adoboli was approved by the Authority to perform the CF30 (Customer) controlled function in relation to UBS AG; and
- involved Mr Adoboli abusing his position as a senior trader of UBS AG contrary to sections 1 and 4 of the Fraud Act 2006. Specifically, Mr Adoboli abused his position as a senior trader of UBS AG causing UBS AG losses amounting to \$2.25bn.

#### **DECISION MAKER**

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

#### **IMPORTANT**

13. This Final Notice is given to Mr Adoboli in accordance with section 390(1) of the Act.

#### **PUBLICITY**

14. The Authority must publish such information about the matter to which this Final 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 Mr Adoboli or prejudicial to the interest of consumers.
15. The Authority intends to publish this Final Notice and such information about the matter to which this Final Notice relates as it considers appropriate.

#### **AUTHORITY CONTACT**

16. For more information concerning this matter generally, please contact Adam Doe at the Authority (direct line: 020 7066 5522).

**John Kirby**  
**Enforcement and Market Oversight Division**

## **ANNEX**

### **RELEVANT STATUTORY 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. Section 56(1) of the Act provides:

"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."

### **RELEVANT REGULATORY PROVISIONS**

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 Enforcement Guide**

4. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
5. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
6. EG 9.3 to 9.5 set out the Authority's general policy on making prohibition orders. In particular—
  - (a) EG 9.3 states that the Authority will consider all relevant circumstances, including whether enforcement action has been taken against the individual by other enforcement agencies, in deciding whether to make a prohibition order;
  - (b) EG 9.4 states that the Authority has power to make a range of prohibition orders depending on the circumstances of each case;
  - (c) EG 9.5 states that the scope of a prohibition order will depend on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
7. EG 9.17 sets out that where the Authority is considering whether to make a prohibition order against someone who is not an approved person, the Authority will consider the severity of the risk posed by the individual and may prohibit him where it considers that it is appropriate to achieve the Authority's statutory objectives.

8. EG 9.18 provides 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. These may include, but are not limited to, the factors set out in EG 9.9. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting that criteria are 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.

### **Fit and Proper Test for Approved Persons**

9. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
10. FIT 1.3.1G(1) states that the most important considerations when assessing the fitness and propriety of a person include that person's honesty, integrity and reputation.
11. FIT 2.1.1G sets out that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters. It notes, amongst other things and by way of example, 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."
12. FIT 2.1.3G(1) states that the matters referred to in FIT 2.1.1G include, but are not limited to, whether a person has been convicted of any criminal offence, noting that particular consideration will be given to offences including those of dishonesty, fraud and financial crime (amongst other things).