

---

**FINAL NOTICE**

---

**Mohammad Mehdi Karim trading as  
M-K Insurance Services  
9 Dengayne  
Basildon  
Essex  
SS14 1QG**

**Date: 1 June 2011**

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") has decided to take the following action**

**1. ACTION**

1.1. By an application received by the FSA on 10 August 2009 ("the Application"), Mohammad Mehdi Karim ("Mr Karim") trading as M-K Insurance Services ("MKIS"), applied under section 40 of the Financial Services and Markets Act 2000 ("the Act") for Part IV permission to carry on the regulated activities of:

- (a) Advising customers on non-investment insurance contracts;
- (b) Arranging (bringing about) deals in non-investment insurance contracts;
- (c) Making arrangements with a view to transactions in non-investment insurance contracts;
- (d) Dealing as agent in non-investment insurance contracts;
- (e) Assisting in the administration and performance of a non-investment insurance contract; and
- (f) Agreeing to carry on a regulated activity.

- 1.2. The Application was not complete.
- 1.3. For the reasons listed below the FSA has refused the Application and, in light of the Upper Tribunal's ("the Tribunal") dismissal of the reference to it as referred to below, has issued this Final Notice.

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

- 2.1. By its Warning Notice dated 19 November 2009 ("the Warning Notice"), the FSA gave MKIS notice that it proposed to take the action described above and MKIS was given the opportunity to make representations to the FSA about that proposed action.
- 2.2. By its Decision Notice dated 29 April 2010 ("the Decision Notice"), the FSA gave MKIS notice that it had decided to refuse the Application as it could not ensure that MKIS satisfied and would continue to satisfy the threshold conditions as set out in Schedule 6 to the Act ("the threshold conditions").
- 2.3. On 24 May 2010, Mr Karim referred the Decision Notice to the Tribunal. The Tribunal, in a written decision dated 13 May 2011 (which can be found on the Tribunal's website at [www.tribunals.gov.uk/financeandtax/Decisions.htm](http://www.tribunals.gov.uk/financeandtax/Decisions.htm)) found that the FSA had been correct to refuse MKIS's Application and dismissed the reference. Accordingly the FSA has refused the Application and issued this Final Notice.

### **Summary**

- 2.4. On the basis of the facts and matters described below and after consideration of the written representations dated 11 December 2009 and oral representations heard on 30 March 2010, the FSA has concluded that it cannot ensure that MKIS will satisfy and continue to satisfy the threshold conditions in that:
  - (a) MKIS's resources will not, in the opinion of the FSA, be adequate in relation to the regulated activities it seeks to carry on and it therefore cannot satisfy Threshold Condition 4; and
  - (b) MKIS has not satisfied the FSA that it is a fit and proper person having regard to all the circumstances and it therefore cannot satisfy Threshold Condition 5.
- 2.5. The Tribunal's judgment includes (amongst others) the following conclusions:

*"It seems to us that Mr Karim's current lack of experience explains the disingenuous and unconvincing replies that he has given to enquirers as to his understanding of the regulatory requirements with which he would need to comply and of the importance and relevance of those requirements. But more to the point his inexperience is, we think, fatal to his present application..."*

and:

*"Finally in this connection, we mention that we, in common with the FSA, are concerned that Mr Karim has not appeared to recognise the need for adequate back-up facilities should he become incapacitated. These are essential and Mr Karim's failure to place any real emphasis on, for example, the engagement of a locum is a symptom of how out of touch he is with the*

*requirements to organise himself so as to comply with the prudential parts of the FSA's Handbook and the systems and controls procedure."*

and:

*"For all those reasons we think the FSA was right. The FSA, like us, cannot be sure on the available evidence that Mr Karim satisfies and will continue to satisfy the conditions in Threshold Conditions 4 and 5. We therefore dismiss the reference."*

### **Relevant Statutory Provisions**

- 2.6. Section 41(2) of the Act requires the FSA, in giving a Part IV permission, to ensure that the person concerned will satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which he will have permission. .

### **Relevant Guidance**

- 2.7. In exercising its powers in relation to the granting of a Part IV permission, the FSA has had regard to guidance published in the FSA Handbook, in particular the part titled Threshold Conditions ("COND"). The main considerations in relation to the action specified above are set out below.

#### ***Threshold condition 4: Adequate Resources***

- 2.8. The threshold conditions which are most relevant to this matter are threshold condition 4 (Adequate resources) and threshold condition 5 (Suitability).
- 2.9. COND 1.3.2G(1) states that the FSA will consider whether a firm satisfies, and will continue to satisfy, the threshold conditions in the context of the size, nature, scale and complexity of the business which the firm carries on or will carry on if the relevant application is granted.
- 2.10. COND 1.3.2G(2) states that, in relation to threshold conditions 4 and 5, the FSA will consider whether a firm is ready, willing and organised to comply on a continuing basis with the requirements and standards under the regulatory system which will apply to the firm if it is granted Part IV permission.
- 2.11. COND 2.4.2G(1) states that threshold condition 4 requires the FSA to ensure that a firm has adequate resources in relation to the specific regulated activity which it seeks to carry on. In this context, 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 (COND 2.4.2G(2)).
- 2.12. COND 2.4.4G allows the FSA, in assessing whether a firm will satisfy, and continue to satisfy, threshold condition 4, to have regard to all relevant matters including whether the firm has conducted enquiries into the financial services sector in which it intends to conduct business that are sufficient to satisfy itself that it has access to adequate capital, by reference to the FSA's prudential requirements, to support the business including any losses which may be expected during its start-up period (COND 2.4.6G(2)(e)(i)).

- 2.13. COND 2.4.5G states that, in complying with SYSC (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.
- 2.14. COND 2.4.6G states that any newly formed firm can be susceptible to early difficulties. These difficulties could arise from a lack of relevant expertise and judgment, or from ill-constructed and insufficiently tested business strategies. As a result, the FSA would expect a firm which is applying for Part IV permission to take adequate steps to satisfy itself, and the FSA, that it has a well constructed business plan or strategy plan for its product or service which demonstrates that it is ready, willing and organised to comply with the relevant requirements in the Prudential Standards part of the Handbook and SYSC that apply to the regulated activity it is seeking to carry on; its business plan or strategy plan has been sufficiently tested; and the financial and other resources of the firm are commensurate with the likely risks it will face.

***Threshold condition 5: Suitability***

- 2.15. COND 2.5.2G(1) states 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 connections with other persons, the range and nature of its proposed regulated activities and the overall need to be satisfied that its affairs are and will be conducted soundly and prudently.
- 2.16. COND 2.5.3G(1) states that the emphasis of this threshold condition 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. In certain circumstances, however, the FSA may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.
- 2.17. COND 2.5.4G allows the FSA to have regard to all relevant matters, including whether the firm will conduct its business with integrity and in compliance with proper standards; will have a competent and prudent management; and can demonstrate that it will conduct its affairs with the exercise of due skill, care and diligence.
- 2.18. COND 2.5.6G allows the FSA, in determining 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, to have regard to all relevant matters including whether:
- (1) the firm has been open and co-operative in all its dealings with the FSA and any other regulatory body and is ready, willing and organised to comply with the requirements and standards under the regulatory system; and
  - (6) the firm has taken reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements under the regulatory system that apply to the firm and the regulated activities for which it has, or will have, permission.
- 2.19. COND 2.5.7G allows the FSA, in determining whether a firm will satisfy, and continue to satisfy, threshold condition 5 in respect of having competent and prudent

management and exercising due skill, care and diligence, to have regard to relevant matters including whether:

(1) the governing body of the firm is made up of individuals with an appropriate range of skills and experience to understand, operate and manage the firm's regulated activities;

(5) the firm has made arrangements to put in place an adequate system of internal control to comply with the requirement and standards under the regulatory system; and

(12) in the case of a firm that carries on insurance mediation activity:

- (a) a reasonable proportion of the persons within its management structure who are responsible for the insurance mediation activity; and
- (b) all persons directly involved in its insurance mediation activity; demonstrate the knowledge and ability necessary for the performance of their duties; and
- (c) all the persons in its management structure and any staff directly involved in insurance mediation activity are of good repute.

### **Facts and Matters Relied On**

- 2.20. Mr Karim applied on 10 August 2009 for direct authorisation of MKIS to become a sole trader general insurance intermediary. MKIS is a sole trader authorised person (a firm) and thus subject to COND. No other approved persons, or advisers will be recruited and consequently the business is solely reliant on Mr Karim in respect of regulated activities. A sole trader authorised person is not required to hold controlled functions (and not subject to APER and FIT).
- 2.21. The application was found to be lacking key information such as a clear business plan, details of Mr Karim's experience and qualifications, details of locum arrangements, how MKIS is to be capitalised, copies of self-certified documents and a contact for a reference.
- 2.22. The FSA sought clarification and Mr Karim subsequently provided details of his qualifications. However, Mr Karim was not able to demonstrate that he has up to date experience in advising on general insurance products as the last time he did so was before 2005. Mr Karim was also unable to demonstrate that he had sufficient experience through references and could not give the name of a referee.
- 2.23. Mr Karim also failed to supply the name of a suitable locum, did not address properly details of capitalisation, did not provide a compliance monitoring programme and did not understand what was meant by self-certified documents.
- 2.24. Mr Karim attended a meeting at the FSA on 17 September 2009. During the course of the meeting Mr Karim could not explain what the capital resource requirement for a general insurance intermediary was, he did not understand what the threshold conditions were, did not demonstrate adequate knowledge of treating customers fairly, was not aware of FSA reporting requirements, was not aware of what should be included in a compliance monitoring programme or manual, could not articulate the

reasons for applying for the scope of permission to include dealing as agent or assisting in the administration and performance of non-investment insurance contracts<sup>1</sup>, did not understand fully the need for a locum and was unable to demonstrate up to date experience in advising on general insurance products.

- 2.25. At the meeting, in order to demonstrate that MKIS has sufficient capital resources, Mr Karim was asked to provide a statement of assets and liabilities for a prospective sole trader firm. MKIS has failed to do so.

### **3 CONCLUSIONS**

- 3.1 After consideration of Mr Karim's oral and written representations the FSA remains unsatisfied that Mr Karim has demonstrated that he is able to sufficiently meet the requirements required of a fit and proper person to perform the regulated activities MKIS has applied for.

#### *Failure to demonstrate adequate resources – Threshold condition 4*

- 3.2 MKIS is unable to satisfy the FSA that it will have adequate resources in relation to the regulated activities which it seeks to carry on. The sole adviser is Mr Karim. There are no other individuals employed by MKIS to ensure that it carries out its regulated activities in compliance with proper standards.
- 3.3 MKIS has also failed to demonstrate that it has carried out sufficient enquiries to understand the FSA's capital resource requirements of a general insurance intermediary, or indeed demonstrate that it will have adequate capital resources. In particular, he has provided no evidence that he has capital resources of £10,000 as referred to in his representations. Additionally, MKIS has failed to satisfy the FSA that it has a well-constructed and sufficiently tested business plan which demonstrates that it is ready, willing and organised to comply with the relevant FSA requirements.
- 3.4 The FSA therefore cannot be satisfied that MKIS will satisfy threshold condition 4 in terms of both its financial and non-financial resources as required by COND 2.4.1.

#### *Failure to demonstrate suitability – Threshold condition 5*

- 3.5 In the opinion of the FSA, MKIS has failed to demonstrate its suitability. MKIS has not demonstrated that Mr Karim has sufficient experience, knowledge ability and skills to advise on general insurance. Nor has MKIS been able to demonstrate that Mr Karim has sufficient understanding of the requirements and standards of the regulatory system. The inadequacy of the information provided by MKIS in support of the Application demonstrates that MKIS is not ready, willing and organised to comply with the requirements and standards under the regulatory system. It also demonstrates that MKIS has failed to take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system. The FSA is therefore not satisfied that MKIS will conduct its business with competence and capability and in compliance with proper standards, pursuant to COND 2.5.4(G)(2)(a).

---

<sup>1</sup> MKIS subsequently withdrew its application for permission to carry on these two activities

- 3.6 The FSA also considers that the governing body of MKIS, which comprises solely of Mr Karim, does not have an appropriate range of skills and experience to understand, operate and manage MKIS's regulated activities, particularly given that MKIS would be directly authorised. Nor does MKIS have in place an adequate system of internal control to comply with the requirements and standards under the regulatory system. The FSA is therefore not satisfied that MKIS will have a competent and prudent management, pursuant to COND 2.5.4(G)(2)(b). Nor is the FSA satisfied that MKIS can demonstrate that it will conduct its affairs with the exercise of due skill, care and diligence, pursuant to COND 2.5.4(G)(2)(c).
- 3.7 The FSA therefore cannot be satisfied that MKIS will satisfy threshold condition 5 in that it has failed to satisfy the FSA that it is a fit and proper person as required by COND 2.5.1.
- 3.8 On the basis of the facts and matters described above, the FSA has concluded that, pursuant to section 41(2) of the Act, it is unable to ensure that MKIS will satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which MKIS would have permission if the application was granted.

#### **4. IMPORTANT NOTICES**

- 4.1 This Final Notice is given to you pursuant to Section 390(2) of the Act

##### **Publication**

- 4.2 Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions the FSA must publish such information about the matter to which the Final 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.
- 4.3 The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

##### **FSA contact**

- 4.4 For more information concerning this matter generally, you should contact Mike Baker, Manager, Permissions Department at the FSA (direct line: 020 7066 1026 / e-mail: mike.baker@fsa.gov.uk).

**Sharon Campbell**  
**Head of Department, Permissions**