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**FINAL NOTICE**

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**To:** Neeraj Harish  
**Date of Birth:** 19 September 1976  
**Dated:** 27 January 2010

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

**1. ACTION**

- 1.1. The FSA gave you, Mr Neeraj Harish, a Decision Notice on 25 January 2010 (“the Decision Notice”) which notified you that it had decided to make an order pursuant to section 56 of the Financial Services and Markets Act 2000 (“the Act”), prohibiting you 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”).
- 1.2. You confirmed on 3 January 2010 that you will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. Accordingly the FSA hereby 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”). The Prohibition Order takes effect from 27 January 2010.

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

2.1. The FSA has concluded, on the basis of the facts and matters described below, that you are not a fit and proper person to perform any functions in relation to regulated activities carried on by authorised or exempt persons and that you should be prohibited from doing so.

2.2. In the opinion of the FSA you are not a fit and proper person because you failed to act with honesty and integrity while employed as a mortgage adviser during the period between September 2005 and December 2007 (“the relevant period”). In particular, you submitted:

(1) a residential mortgage application on your own behalf through the regulated firm for whom you were working (“the Firm”) which you knew contained false and misleading information about your income; and

(2) three buy-to-let mortgage applications for your own benefit through the Firm which you knew contained false and misleading information regarding your income.

2.3. You pose a risk to lenders and consumers and to confidence in the financial system. This action also supports the FSA’s objective to reduce financial crime.

2.4. As a result of the nature and seriousness of these breaches, the FSA has concluded that it is proportionate to prohibit you from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm because you have failed to meet the minimum regulatory standards required in terms of honesty and integrity.

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

3.1. The relevant statutory provisions, regulatory requirements and FSA guidance are set out at Annex 1.

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

##### *Background*

- 4.1. You were employed by the Firm as a mortgage adviser in October 1999 and then, from mid-2007, you worked for the Firm as an office manager. You were not an approved person and you have never held any controlled functions.
- 4.2. During your employment at the Firm you submitted four mortgage applications (one residential and three buy-to-let) for your own benefit which included false and misleading income information.

##### *Residential Mortgage Application*

- 4.3. On 3 August 2005, you submitted an application for a residential mortgage on your own behalf for a loan amount of £152,550. This mortgage completed on 12 September 2005. You declared your income in this mortgage application as £70,000 (£50,000 basic income and £20,000 rental income).
- 4.4. For the tax year ending 5 April 2006 you declared an income of £15,466.62 to Her Majesty's Revenue and Customs ("HMRC").
- 4.5. You admitted in your interview on 17 March 2009 that you knowingly submitted this residential mortgage application with the knowledge that it included inflated income details.

##### *Buy-to-let Mortgage Applications*

- 4.6. You submitted three unregulated buy-to-let mortgage applications in 2005 on your own behalf. In all three of these applications you knowingly inflated your own income details to obtain an increased loan amount. The details of these buy-to-let applications are as follows:
  - (1) You applied for a buy-to-let mortgage in September 2005. You applied for a loan of £138,975 and you declared your total personal income as £50,000 per annum. This application completed in October 2005;

(2) You applied for another buy-to-let mortgage two months later in November 2005. You applied for a £144,075 loan and again declared your income as £50,000. This application completed in November 2005; and

(3) You applied for a further buy-to-let mortgage in November 2005. You applied for a £144,075 loan and declared your income as £50,000. This application also completed in November 2005.

4.7. In all three buy-to-let applications your income was recorded as £50,000. This represents a substantial inflation compared to the income you declared to HMRC. The annual income you declared to HMRC for the period covering these three applications was £15,466.62. You therefore obtained three buy-to-let mortgage loans totalling approximately £427,125 by knowingly inflating your income details in your applications to lenders.

## **5. ANALYSIS OF BREACHES**

5.1. The facts and matters described above lead the FSA to conclude that you knowingly misled lenders by submitting mortgage applications on your own behalf which contained false and misleading income information.

5.2. The FSA has concluded that as a result of the nature and gravity of these matters you failed to act with honesty and integrity.

5.3. Your failings demonstrate that you are not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

5.4. The FSA therefore considered it necessary to prohibit you pursuant to section 56 of the Act.

## **6. DECISION MAKER**

6.1. The decision which gave rise to the obligation to give this Notice was made on behalf of the FSA by Settlement Decision Makers for purposes of the FSA's Decision Procedure and Penalties Manual.

## **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 Final 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 contact**

7.4. For more information concerning this matter generally, you should contact Paul Howick of the Enforcement and Financial Crime Division at the FSA (direct line: 020 7066 7954).

Tom Spender  
Head of Department  
Financial Services Authority

## ANNEX 1

### RELEVANT STATUTORY AND REGULATORY PROVISIONS AND FSA GUIDANCE

#### 1. Statutory Provisions

- 1.1. The FSA's statutory objectives, as set out in section 2(2) of the Act, include the reduction of financial crime, protection of consumers and maintenance of market confidence.

##### *Prohibition*

- 1.2. Section 56 of the Act provides that if it appears to the FSA 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, the FSA may make a prohibition order.
- 1.3. Section 56(2) of the Act provides that the FSA may make a prohibition order prohibiting an individual from performing a specified function, any function falling within a specified description, or any function. The prohibition order may relate to a specified regulated activity, any regulated activity falling within a specified description, or all regulated activities (section 56(3)(a)).

#### 2. Relevant FSA Policy

##### *Prohibition Orders*

- 2.1. The FSA's policy in relation to the exercise of its powers to make a prohibition order is set out in Chapter 9 of The Enforcement Guide (EG).
- 2.2. EG 9.1 states that the FSA's power to make prohibition orders under section 56 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 appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he/she may perform.

- 2.3. EG 9.4 sets out the general scope of the FSA's powers in this respect. The FSA 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. EG 9.5 provides that the scope of a prohibition order will vary according to the range of functions that the individual performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of the risk posed by him to the consumers or the market generally.
- 2.4. EG 9.17 to 9.18 provide guidance on the FSA's exercise of its power to make a prohibition order against an individual who is not an approved person. The FSA 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 regulatory objectives. When considering whether to exercise its power to make a prohibition order against such an individual, the FSA will consider all the relevant circumstances of the case, which may include but are not limited to the factors set out in EG 9.9.
- 2.5. EG 9.9 provides that when deciding whether to make a prohibition order the FSA will consider all the relevant circumstances of the case, which may include (but are not limited to):
- (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing fitness and propriety are set out in FIT 2.1 (Honesty, integrity and reputation), FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
  - (2) whether, and to what extent, the person has 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).
  - (3) the relevance and materiality of any matters indicating unfitness;
  - (4) the length of time since the occurrence of any matters indicating unfitness;
  - (5) the particular function the person is (or was) performing, the nature and activities of the firm concerned and the markets in which it operates; and

- (6) the severity of the risk which the individual poses to consumers and to confidence in the financial system.
- 2.6. EG 9.10 provides that the FSA may have regard to the cumulative effect of a number of factors.
- 2.7. 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 severe acts of dishonesty, for example those which may have resulted in financial crime.

*Fit and Proper Test for Approved Persons*

- 2.8. FIT sets out the 'Fit and Proper' test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function. FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 2.9. In this case, the criteria set out in FIT are relevant in considering whether the FSA should exercise its powers to withdraw your approval and/or make a prohibition order against you in accordance with the guidance set out in EG 9.8 to 9.14.
- 2.10. FIT 1.3.1 G 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.
- 2.11. In determining a person's honesty, integrity and reputation, FIT 2.1.1 G provides that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3 G. Those matters include:
  - (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3 G (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 2.1.3 G (13)).