



Financial Services Authority

FINAL NOTICE

To: **Newcastle Home Loans Limited**
Of: 1st Floor Endeavour House
Colmet Court
Team Valley Trading Estate
Gateshead
NE11 0EF
Dated: 20 July 2009

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the “FSA”) gives Newcastle Home Loans Limited (“NHL”) final notice about the cancellation of permission granted to NHL, pursuant to Part IV of the Act.

1. PROPOSED ACTION

- 1.1. The FSA gave Newcastle Home Loans Limited (“NHL”/the “Firm”) a Decision Notice on 5 June 2009 which notified the Firm that pursuant to section 45 of the Financial Services and Markets Act 2000 (the “Act”), the FSA has decided to cancel the permission granted to NHL, pursuant to Part IV of the Act (“NHL’s Part IV permission”).
- 1.2. NHL was informed of its statutory right to make a reference to the Financial Services and Markets Tribunal, but it has not referred the Decision Notice to the Tribunal within 28 days of the date on which the Decision Notice was given to the Firm.

1.3. Accordingly, for the reasons set out below and pursuant to section 45 of the Act, the FSA hereby cancels NHL's Part IV permission.

2. REASONS FOR THE ACTION

2.1. By a Final Notice dated 26 February 2009 the FSA decided to impose a financial penalty on NHL of £170,000 for its failure to conduct its business with integrity by arranging regulated mortgages on the basis of applications containing false information, which it has failed to pay.

2.2. The Firm has also routinely submitted applications for unregulated mortgage contracts to a mortgage lender which contained false information and is connected to individuals who are not fit and proper. By Final Notices dated 26 February 2009, the FSA prohibited Linda Patterson and David Purdie, and by a Final Notice dated 3 June 2009, the FSA prohibited Grace Purdie. All three individuals were prohibited for acting without honesty and integrity by submitting mortgage applications containing false information. David Purdie was the shadow-Chief Executive Officer ("CEO") of NHL. Linda Patterson and Grace Purdie were the two directors of the Firm and were both approved persons.

2.3. The FSA has concluded, based on the facts and matters below, that NHL is failing to satisfy the threshold conditions set out in Part 1 of Schedule 6 to the Act (the "Threshold Conditions"). Specifically, the Firm has inadequate human resources, as there are no fit and proper persons managing the Firm as a result of the action taken by the FSA as detailed in paragraph 2.2 above. It therefore fails Threshold Condition 4 (Adequate Resources). Further, the Firm is not fit and proper in all the circumstances as a result of the findings detailed in paragraphs 2.1 and 2.2 above and it therefore fails Threshold Condition 5 (Suitability).

Relevant Statutory Provisions

2.4. Under section 2(2) of the Act, the FSA's regulatory objectives include the protection of consumers, public awareness and the reduction of financial crime.

2.5. Section 45 of the Act provides that the FSA may exercise its power to cancel a firm's Part IV permission if it appears to the FSA that he is failing or is likely to fail to satisfy the Threshold Conditions.

2.6. Section 41 and Schedule 6 to the Act set out the Threshold Conditions which are conditions that the FSA must ensure a firm will satisfy and continue to satisfy, in relation to the regulated activities for which it has permission.

2.7. Paragraph 4 of Schedule 6 to the Act states that the resources of the person concerned (i.e. an authorised firm) must, in the opinion of the FSA, be adequate in relation to the regulated activities he seeks to carry on or carries on (Threshold Condition 4: Adequate Resources).

2.8. Paragraph 5 of Schedule 6 to the Act states that the person concerned must satisfy the FSA that he is fit and proper having regard to all the circumstances including (a) his connection with any person; (b) the nature of any regulated activities that he seeks to

carry on or carries on; and (c) the need to ensure his affairs are conducted soundly and prudently (Threshold Condition 5: Suitability).

- 2.9. The FSA is authorised by sections 45(1) and (2) of the Act to cancel an authorised person's Part IV permission where it appears that an authorised person is failing, or likely to fail, to satisfy the Threshold Conditions.

Relevant Handbook provisions

- 2.10. Guidance on the Threshold Conditions is set out in the part of the FSA Handbook entitled Threshold Conditions ("COND").

COND 2.4 – Threshold Condition 4: Adequate resources (Paragraph 4, Schedule 6 to the Act)

- 2.11. COND 2.4.1(1) reproduces the relevant statutory provision that the resources of the person concerned (i.e. the firm) must, in the opinion of the FSA, be adequate in relation to the regulated activities that he seeks to carry on, or carries on.
- 2.12. COND 2.4.2G(2) provides that 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 2.5 – Threshold Condition 5: Suitability (Paragraph 5, Schedule 6 to the Act)

- 2.13. COND 2.5.1(1) reproduces the relevant statutory provision that the firm must satisfy the FSA that he is a fit and proper person having regard to all the circumstances, including his connection with any person, the nature of any regulated activity that he carries on or seeks to carry on, and the need to ensure that his affairs are conducted soundly and prudently.
- 2.14. COND 2.5.3G(1) provides that the emphasis of Threshold Condition 5 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.
- 2.15. COND 2.5.4G states that in determining whether the firm will satisfy and continue to satisfy Threshold Condition 5, the FSA has to have regard to all relevant matters, which include, but are not limited to, whether a firm (a) conducts, or will conduct its business with integrity and in compliance with proper standards; or (b) has, or will have a competent and prudent management (COND 2.5.4G(1) and (2)).
- 2.16. COND 2.5.6G(1) states that the relevant matters referred to in COND 2.5.4G may also include, but are not limited to whether the firm has been open and co-operative in all its dealings with the FSA and is ready, willing and organised to comply with the requirements and standards under the regulatory system.

Relevant guidance

- 2.17. The FSA's policy in relation to its enforcement powers is set out in the Enforcement Guide ("EG").

EG 8 – the FSA's policy for exercising its own initiative power to cancel a Part IV permission

- 2.18. EG 8.13(1) provides that the FSA will consider cancelling a firm's Part IV permission using its own initiative powers contained in section 45 of the Act where the FSA has very serious concerns about a firm, or the way its business is or has been conducted.

Facts And Matters Relied On

- 2.19. NHL was authorised on 7 October 2005 to conduct regulated mortgage business.
- 2.20. By Final Notices dated 26 February 2009, the FSA decided to withdraw the individual approval granted to Linda Patterson and prohibit her, together with David Purdie, from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm on the basis that the FSA considered that they are not fit and proper.
- 2.21. By a Final Notice dated 3 June 2009 the FSA decided to withdraw the individual approval granted to Grace Purdie and prohibit her from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm on the basis that the FSA considered that she is not fit and proper. The FSA also decided to impose a financial penalty on Grace Purdie of £85,000 for failing to comply with Principles 6 and 7 of the FSA's Statements of Principle and Code of Practice for Approved Persons.
- 2.22. NHL has no persons who are fit and proper to perform controlled functions in relation to the regulated activities that it has permission to carry on.
- 2.23. By a Final Notice dated 26 February 2009 the FSA decided to impose a financial penalty of £170,000 on NHL for its breach of Principle 1 of the FSA's Principles for Businesses and for failing to seek approval for David Purdie to perform the role of CEO. NHL breached Principle 1 by arranging regulated mortgage contracts on the basis of applications containing false information. This practice was systemic at the Firm. NHL has failed to pay this penalty.
- 2.24. Further, in addition to the arrangement of regulated mortgages, NHL arranged unregulated mortgage contracts on the basis of applications containing false information. NHL knowingly arranged at least 20 such unregulated mortgage contracts containing false information.

Representations

- 2.25. NHL made no representations in respect of the Warning Notice.

Conclusion

- 2.26. The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, market confidence and the reduction of financial crime, to conclude that NHL is failing to satisfy Threshold Condition 4 (Adequate Resources) because it does not have adequate human resources and Threshold Condition 5 (Suitability) because it is not fit and proper having regard to all the circumstances.

3. DECISION MAKER

- 3.1. The decision which gave rise to the obligation to issue this Final Notice was taken by the Regulatory Decisions Committee.

4. IMPORTANT

- 4.1. This Final Notice is given to NHL in accordance with section 390 of the Act.

Publicity

- 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 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 NHL 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 contacts

- 4.4. For more information concerning this matter generally, you should contact Bill Sillett at the FSA (direct line: 020 7066 5880).

William Amos
Head of Department
Enforcement Division