
FINAL NOTICE

**On the Move Mortgages (UK) Limited
c/o Cito Properties
Queensway Business Complex
1 Tennant Avenue
College Milton
East Kilbride
G74 5NA**

Date: 13 December 2011

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) has taken the following action:

1. ACTION

1.1. By an application received by the FSA on 4 August 2010 (“the Application”), On the Move Mortgages (UK) Limited (“OTMML”) applied under section 40 of the Financial Services and Markets Act 2000 (“the Act”) for Part IV permission to perform the regulated activities of :

- (1) Advising on regulated mortgage contracts.
- (2) Arranging (bringing about) regulated mortgage contracts.
- (3) Making arrangements with a view to regulated mortgage contracts.
- (4) Advising on investments in relation to non-investment insurance contracts.

- (5) Arranging (bringing about) deals in investments in relation to non-investment insurance contracts.
- (6) Making arrangements with a view to transactions in investments in relation to non-investment insurance contracts.
- (7) Advising on investments (except on pension transfers and opt outs).

1.2. For the reasons listed below, the FSA has refused the Application.

2. REASONS FOR THE ACTION

- 2.1 By its Warning Notice dated 15 September 2011 (the "Warning Notice"), the FSA gave notice that it proposed to refuse the Application, and that OTMML was entitled to make representations to the FSA about that proposed action.
- 2.2 As no representations have been received by the FSA from OTMML within the time allowed by the Warning Notice, the default procedures in paragraph 2.3.2 of the FSA's Decision Procedure and Penalties manual permitted the FSA to treat the matters referred to in its Warning Notice as undisputed.
- 2.3 By its Decision Notice dated 2 November 2011 ("the Decision Notice"), the FSA gave OTMML notice that it had decided to take the action described above.
- 2.4 Under section 133(1) of the Act, OTMML had 28 days from the date the Decision Notice was given to refer the matter to the Upper Tribunal (formerly known as the Financial Services and Markets Tribunal). No referral was made to the Upper Tribunal within this period of time or to date.
- 2.5 Under section 390(1) of the Act, the FSA, having decided to refuse the Application and there having been no reference of that decision to the Tribunal, must give OTMML this Final Notice of its refusal.
- 2.6 The FSA decided to refuse the Application and to give this Final Notice as it cannot ensure that OTMML satisfies and will continue to satisfy the threshold conditions set out in Schedule 6 to the Act (the threshold conditions) in that:
 - (1) OTMML has not satisfied the FSA that its resources will be adequate in relation to the regulated activities it seeks to carry on (threshold condition 4), in particular having regard to the capital resource requirements for a firm of this size and;
 - (2) OTMML has not satisfied the FSA that it is a fit and proper person having regard to all the circumstances including the nature of the regulated activities it seeks to carry on and the need to ensure that its affairs are conducted soundly and prudently (threshold condition 5), in particular that OTMML has failed to be open and co-operative and respond to requests made by the FSA in relation to its application.

Relevant Statutory Provisions

- 2.7 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

- 2.8 In exercising its powers in relation to the granting of Part IV permission, the FSA must have regard to guidance published in the FSA Handbook, including the part titled Threshold Conditions (COND). The main considerations in relation to the action specified are set out below.

Threshold condition 4: Adequate Resources

- 2.9 COND 1.3.2 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.
- 2.10 COND 2.4.2 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.
- 2.11 COND 2.4.3(1) states that the FSA may have regard to persons connected with the firm which might pose a risk to the firm’s satisfaction of the threshold conditions.
- 2.12 COND 2.4.4 states that, when assessing whether the firm will satisfy and continue to satisfy this threshold condition, relevant matters include whether the firm has taken reasonable steps to identify and measure any risks of regulatory concern it may encounter in conducting its business and has installed appropriate systems and controls and appointed adequate human resources to measure them prudently at all times (COND 2.4.4(2)(d)).
- 2.13 COND 2.4.5 states that 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.

Threshold condition 5: Suitability

- 2.14 COND 2.5.2(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 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.
- 2.15 COND 2.5.2(2) states that the FSA will also take into consideration anything that could influence a firm’s continuing ability to satisfy threshold condition 5.

- 2.16 COND 2.5.3(1) states that, while the emphasis of the suitability threshold condition is on the firm itself, 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 2.5.3(2) permits the FSA to have regard to any person appearing to be in a relevant relationship with the firm.
- 2.18 COND 2.5.4 allows the FSA to have regard to all relevant matters, including whether the firm:
- (a) will conduct its business in compliance with proper standards;
 - (b) will have a competent and prudent management; and
 - (c) can demonstrate that it will conduct its affairs with the exercise of due skill, care and diligence.
- 2.19 COND 2.5.6 allows the FSA, in determining whether a firm will satisfy, and continue to satisfy, threshold condition 5 in respect of conducting its business in compliance with proper standards, to have regard to relevant matters including whether:
- (1) the firm is ready, willing and organised to comply with the requirements and standards under the regulatory system (COND 2.5.6(1));
 - (2) the firm has taken reasonable care to establish and maintain effective systems and controls for the compliance with applicable requirements and standards under the regulatory system that will apply to the firm (COND 2.5.6(6)).
- 2.20 COND 2.5.7 permits 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 (COND 2.5.7(1));
 - (2) the governing body of the firm is organised in such a way that enables it to address and control the regulated activities of the firm (COND 2.5.7(3));
 - (3) the firm has made arrangements to put in place an adequate system of internal control to comply with the requirements and standards under the regulatory system (COND 2.5.7(5));
 - (4) the firm has conducted enquiries that are sufficient to give it reasonable assurance that it will not be posing unacceptable risks to consumers or the financial system (COND 2.5.7(9)).

Facts and Matters Relied Upon

2.21 Background to the Application

2.22 OTMML submitted an application which was approved in principle on 11 April 2011. The firm was required to provide evidence of capitalisation prior to authorisation and evidence that PII cover had been obtained. A copy of a PII certificate of insurance evidencing cover from April 20, 2011 was received. Mr Russell failed to provide a bank statement in the name of OTMML.

2.23 Mr Russell was sent an email on 21 April 2011 which requested that he provide proof that the account number on the statement he had provided related to OTMML and evidence of share capital.

2.24 Mr Russell was emailed once on 17 May 2011 and twice on 26 May 2011 requesting capitalisation information. The second email of 26 May 2011 requested that the information be provided by June 01, 2011. Mr Russell was reminded in the emails that, if OTMML did not respond, we would have no choice other than to recommend refusal of its application.

2.25 Telephone messages were also left on Mr Russell's mobile phone on 18 May 2011, 25 May 2011 and 26 May 2011 asking him to provide the requested capitalisation information as soon as possible.

2.26 Mr Russell responded by email on 30 May 2011 requesting more time as he needed to change address at Companies House. This is the last communication received from Mr Russell.

2.27 On 6 June 2011 the FSA telephoned a representative of the consultant company ("A"), whom OTMML had appointed to provide compliance support throughout the application and once OTMML became an authorised firm, in order to identify why Mr Russell was not providing the requested capitalisation information on behalf of OTMML. The representative informed the FSA that, in his opinion, Mr Russell was having financial difficulties and was currently unable to provide a bank statement for OTMML evidencing a £5,000 deposit. In addition the representative informed the FSA that Mr Russell was indebted to A.

2.28 On 9 June 2011, and in light of the information received from A, a letter was sent to Mr Russell requesting further information in respect of OTMML's financial affairs. No response was received.

2.29 Additional letters addressed to OTMML (via Mr Russell) dated 28 June 2011, 30 June 2011 and 14 July 2011 were sent by recorded delivery to three alternative addresses held for Mr Russell including his home address. No response has been received to date.

Assessment against the threshold conditions

2.30 In light of the facts and matters set out above, the FSA has concluded that it cannot ensure that OTMML will satisfy and continue to satisfy threshold condition 4 (adequate resources) in that OTMML has failed to demonstrate that it has:

- (1) adequate financial resources in relation to the regulated activities it seeks to carry on having regard to the capital resource requirements for a firm of this size.

2.31 Further, the FSA has also concluded that in light of the facts above, it cannot ensure that OTMML will satisfy and continue to satisfy threshold condition 5 (suitability) in that it has failed to demonstrate that:

- (1) it is ready, willing and organised to comply with the requirements and standards under the regulatory system;
- (2) it has taken reasonable care to establish and maintain effective systems and controls for the compliance with applicable requirements and standards under the regulatory system that will apply to it;
- (3) its governing body is made up of individuals with an appropriate range of skills and experience to understand, operate and manage its regulated activities;
- (4) its governing body is organised in such a way that enables it to address and control its regulated activities;
- (5) it has made arrangements to put in place an adequate system of internal control to comply with the requirements and standards under the regulatory system; and
- (6) it has conducted enquiries that are sufficient to give it reasonable assurance that it will not be posing unacceptable risks to consumers or the financial system.

3. CONCLUSIONS

3.1 On the basis of the facts and matters described above, the FSA has concluded that it cannot satisfy the requirement of section 41(2) of the Act that it must ensure that OTMML will satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which OTMML would have permission if the application was granted.

4. IMPORTANT NOTICES

4.1 This Final Notice is given to OTMML pursuant to Section 390(1) 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 Andrew Freeman, Manager, Permissions Department at the FSA (direct line 020 7066 9786 / email: andrew.freeman@fsa.gov.uk).

Mary O'Connor
on behalf of the Regulatory Transactions Committee