

---

**FINAL NOTICE**

---

**Route of Asia Money Exchange Limited**  
**Unit 3, Hanford Way**  
**Loughborough**  
**Leicestershire**  
**LE11 1LS**

Date: 23 May 2013

**TAKE NOTICE:**

1. On 1 April 2013 the Financial Services Authority was renamed the Financial Conduct Authority; in this Notice “the Authority” is used to refer to that organisation both before and after the name change.

**ACTION**

2. By an application received by the Authority on 1 March 2012, Route of Asia Money Exchange Limited applied under Regulation 5 of the Payment Services Regulations 2009 (“the PSRs”) for authorisation as an authorised payment institution and to perform the following payment services:
  - (1) money remittance.
3. The application is incomplete.
4. For the reasons listed below and pursuant to Regulations 9(2) and 9(8)(a) of the PSRs, the Authority has refused the Application.

## DEFINITIONS

5. The definitions below are used in this Final Notice.

“Application” means the application referred to in paragraph 2, i.e. Route of Asia’s application dated 1 March 2012 to become an authorised payment institution;

“the Authority” means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

“Route of Asia” means Route of Asia Money Exchange Limited;

“PSD” means the Payment Services Directive (2007/64/EC);

“PSRs” means the Payment Services Regulations 2009 (2009 No.209);

“the Act” means the Financial Services and Markets Act 2000 (as modified and applied by the PSRs)

## SUMMARY OF REASONS

6. On the basis of the facts and matters described below, the Authority has decided to refuse the Application because the Applicant has failed to satisfy the Authority that:

- Salim Miah:

- (i) who has a qualifying holding in Route of Asia, is a fit and proper person to hold that qualifying holding, having regard to the need to ensure the sound and prudent conduct of the affairs of an authorised payment institution, pursuant to Regulation 6(6)(a); and
- (ii) who is the Managing Director of Route of Asia, is of good repute pursuant to Regulation 6(6)(b).

- Joshim Uddin:

- (i) who is responsible for the management of Route of Asia as Operations Manager, is of good repute pursuant to Regulation 6(6)(b).

7. The Authority’s concerns as to the fitness and propriety and reputation of Salim Miah as both a director and as a person who has a qualifying holding in Route of Asia arise from the following:

- (i) he had a previous conviction for insurance fraud, which he failed to disclose. Mr Miah was convicted on 4 April 1995 at Loughborough Magistrates Court for obtaining property by deception and fined £500 and ordered to pay costs of £45;

- (ii) he was arrested by the police in 2009 in relation to a money laundering investigation, although insufficient evidence was found and no charges were brought against Mr Miah; and
  - (iii) he failed to disclose the information about his conviction and his involvement in a criminal investigation in his PSD Individual Form.
- 8. The Authority's concerns as to the fitness and propriety and reputation of Joshim Uddin as a person responsible for the management of Route of Asia arise from the following:
  - (i) he had a previous conviction for insurance fraud, which he failed to disclose. Mr Uddin was convicted on 31 October 2003 at Loughborough Magistrates Court for obtaining property by deception and fined £200 and ordered to pay costs of £35;
  - (ii) he had a previous conviction for using threatening, abusive, insulting words or behaviour which he failed to disclose. Mr Uddin was convicted on 2 September 2001 at Leicester Crown Court for using threatening, abusive, insulting words or behaviour with intention to cause fear and was given a conditional discharge for 12 months and ordered to pay costs of £75; and
  - (iii) he failed to disclose his convictions in his PSD Individual Form.
- 9. By its Warning Notice dated 25 January 2013 ("the Warning Notice") issued pursuant to Regulation 9(7) of the PSRs, the Authority gave notice that it proposed to refuse the Application and that Route of Asia was entitled to make representations to the Authority about that proposed action.
- 10. As no representations have been received by the Authority from Route of Asia within the time allowed by the Warning Notice, the default procedures in paragraph 2.3.2 of the Authority's Decision Procedure and Penalties Manual apply, permitting the Authority to treat the matters referred to in its Warning Notice as undisputed and, accordingly, to give a Decision Notice.
- 11. By its Decision Notice dated 28 February 2013 ("the Decision Notice"), the Authority gave Route of Asia notice that it had decided to take the action described above.
- 12. On the basis of the facts and matters described above, the Authority has concluded that it cannot ensure that Route of Asia satisfies and will continue to satisfy the 'Conditions for registration as an authorised payment institution' set out in Regulation 6 of the PSRs.

## **Facts and Matters Relied Upon**

### ***Background***

13. Route of Asia's application to be an authorised payment institution was received on 1 March 2012, together with a number of supplementary forms and supporting documentation.
14. Route of Asia was incorporated on 25 January 2012 and has not yet traded. It is proposed that the money transmission business currently carried on by Mr Miah as a sole trader will be carried on by Route of Asia as, in order to be approved as an authorised payment institution, a firm must be a body corporate.
15. At present Mr Salim Miah is registered with the Authority as a small payment institution using the trading name Route of Asia.
16. Route of Asia proposes to focus on offering money remittance services to UK-based individuals and small and medium enterprises that will mainly be transmitting money to Bangladesh.

### ***The Ownership and Management of Route of Asia***

17. Salim Miah holds 100% of the shares in Route of Asia. PSD Individual Forms were received from:
  - (i) Salim Miah (Managing Director and MLRO); and
  - (ii) Joshim Uddin (Operations Manager).

### ***Lack of Fitness and Propriety and Reputation***

#### ***Non-disclosure of Criminal Convictions and Police Investigation***

18. In the course of performing its due diligence, the Authority became aware that Mr Miah and Mr Uddin had previous criminal convictions and that Mr Miah had been arrested and bailed in connection with a police money laundering investigation, although no charges were brought against him.
19. The Authority entered into correspondence with Mr Miah during which the firm was asked to review the responses provided in section 5 of the PSD Individual Forms which had been submitted to the Authority. Mr Miah's attention was drawn to the notes to section 5 of the individual form which warned applicants that "the Authority treats non-disclosure very seriously. If in doubt disclose."
20. Despite being given another opportunity, Mr Miah made no disclosure of his previous criminal conviction or that he had been arrested by the police in 2009. However, Route of Asia disclosed that Mr Uddin had two previous criminal convictions, which had not been disclosed when his PSD Individual Form had been submitted.

21. The reason provided for the non-disclosure of Mr Uddin's convictions was that *"both offences occurred over 6 years ago. Mr Joshim believed that he was not required to disclose the historical information beyond 6 years."*

22. Route of Asia gave the following explanation regarding the nature of Mr Uddin's convictions:

*"The public order conviction occurred at Leicester Crown Court. Further details surrounding the conviction are as follows:- Mr Joshim Uddin was out with friends who were involved in a fight which didn't include Mr Joshim. When the police arrived Mr Joshim was accused of intimidation by the other party. Mr Joshim Uddin was convicted of this offence and received a conditional discharge."*

*"With regards to the conviction for fraud and kindred offences, this took place at Loughborough Magistrates Court. Further details with regards to this conviction are as follows:- Mr Joshim Uddin had his house burgled in 2003, when filing an insurance claim Mr Joshim included a laptop that did not belong to him, the rest of the claim was genuine. As a consequence Mr Joshim received a fine of £500. No further action was taken apart from the fine imposed."*

23. The Authority sent further correspondence to Mr Miah in which he was made aware that the Authority had received information that he had a previous conviction and that he had been the subject of a Police investigation. He was asked to explain why he had not disclosed this information as required in his PSD individual form and when the Authority had previously asked him to review his original response.

24. The reason provided by Mr Miah for not disclosing this information was as follows:

*"With reference to the charge; this event happened a long time ago, nearly 20 years, and I was unaware of the need to disclose information from such a long time in my past. As for the police investigation the charge was dropped against myself and no further action was taken and as such I did not believe that it needed to be disclosed. Upon reconsidering the matter I agree that this should have been disclosed originally."*

25. With regard to Mr Miah's conviction for fraud in 1995 he gave the following explanation:

*"I was having trouble with my car and took it to a local garage for repairs. I was informed that there was a problem with the engine and in order to repair this problem I was told it would cost a substantial amount of money. One of the garage employees advised me to write the car off and make a claim through my insurance company. I was young, naïve and was unaware of the implications of this action. The insurance company found out about the false claim. I was charged and made to pay the court expenses."*

26. With regard to Mr Miah's arrest in 2009 he provided the following explanation:
- “With regards to the Police investigation this relates to a few of my agents and how they were conducting business with us. There were 2-3 enquiries made by the police regarding these agents. I cooperated with the police, giving interviews and disclosing all relevant requested information. I was also questioned by SOCA once. I believe this was in September 2009, relating to the same matter and again cooperated fully. I stated how we conducted business with our agents, procedures in place, AML and sanction screening and all documentation collected before a remittance transaction is completed. After an initial period in which I was on bail, the charge was dropped against me as it was clear my dealings were conducted in conjunction with all UK Money Standards and Regulations. No further action has been taken against me or my company and I understand that this case is now closed.”*
27. Mr Miah and Mr Uddin failed to disclose the fact of their convictions in response to question 5.01 i. of their PSD Individual Forms which asks:
- “Has the PSD Individual ever been convicted of any criminal offence? (You should include any conviction of an offence for which the PSD Individual received an absolute or conditional discharge. You should include traffic offences only if they resulted in a ban from driving or involved driving without insurance).”*
28. Mr Miah also failed to disclose the fact of his arrest in response to question 5.01 iii of his PSD Individual Form which asks:
- “Has the PSD Individual ever been arrested with any criminal offence or been the subject of a criminal investigation? (You should include all matters even if the arrest, charge or investigation did not result in a conviction).”*
29. The guidance note at the beginning of Section 5 of the PSD Individual Form covering Fitness and Propriety states:
- “Part A – Criminal proceedings*
- In answering the questions in Part A you should include matters whether in the United Kingdom or overseas by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, if the individual is subject to the law of England and Wales, spent convictions and cautions must be disclosed.”*
30. Each PSD Individual Form is accompanied by signed declarations from both the individual and the firm, which include the following statement:
- “It should not be assumed that information is known to the Authority merely because it is in the public domain or has previously been disclosed to the Authority or another regulatory body. If there is any doubt about the relevance of the information it should be included.”*
31. The Authority considers that the individuals' failure to answer questions honestly in their PSD Individual Forms in particular, coupled with their previous convictions for offences which involved dishonesty, go to their general honesty,

integrity and reputation to be a director or a person responsible for managing a payment services firm.

## CONCLUSION

32. Pursuant to Regulation 6(1) the Authority may refuse an application for authorisation as an authorised payment institution only if any of the conditions in paragraphs (2) – (8) of Regulation 6 are not met. The Authority is of the view that it cannot be satisfied that Regulation 6(6)(a) and 6(6)(b) are met.
33. Regulation 6(6)(a) requires persons having a qualifying holding to be fit and proper, whilst Regulation 6(6)(b) requires a director, or person responsible for the management of payment services, to be of good repute.
34. Each of the individuals who completed a PSD Individual Form must therefore satisfy the Authority that they are fit and proper and/or of good repute. The Authority is not satisfied that the persons referred to in paragraph 3.1 above are fit and proper because their previous convictions and Mr Miah's arrest, are matters about which the Authority should have been informed. The failure to disclose these matters impugns the integrity and honesty of the individuals.
35. In forming this view, the Authority has taken account of:
  - (i) the fact that both Mr Miah and Mr Uddin have been convicted of criminal offences which have involved dishonesty;
  - (ii) the fact that Mr Miah's conviction occurred over seventeen years ago and Mr Uddin's convictions occurred over nine and eleven years ago respectively after which time the convictions were therefore spent;
  - (iii) the fact that Mr Miah was arrested in 2009 but that no charges were brought against him;
  - (iv) the fact that both Mr Miah and Mr Uddin have failed to answer the questions in their respective PSD Individual Forms honestly. Where the form asks for all convictions, including spent convictions, to be disclosed no offences were initially disclosed;
  - (v) the fact that Mr Uddin did disclose the matters set out above when given another opportunity to do so by Authority; and
  - (vi) the fact that Mr Miah only disclosed his conviction and arrest after he was informed by the Authority that the Authority knew about his offence and the police investigation.
36. On the basis of the facts and matters described above, the Authority has therefore concluded that Route of Asia does not satisfy the requirements of Regulations 6(6)(a) and 6(6)(b), and the Authority therefore refuses the Application.

## **IMPORTANT NOTICES**

37. This Final Notice is given to Route of Asia pursuant to Schedule 5 Part 1 (7) of the PSRs (which incorporates section 390(1) of the Act).

### **Publication**

38. 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 Authority must publish such information about the matter to which the 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 Route of Asia or prejudicial to the interests of consumers.

### **The Authority contact**

39. For more information concerning this matter generally, you should contact James Borley, Manager, Permissions Department at the Authority (direct line 020 7066 5340 / e-mail: james.borley@fca.org.uk).

**Graeme McLean**  
**Chair of the Regulatory Transactions Committee**



## **ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS DECISION NOTICE**

### **Relevant Statutory Provisions**

#### ***The Payment Services Regulations 2009***

1. Regulation 5(1) requires an application for authorisation as a payment institution to contain, or be accompanied by, the information specified in Schedule 2. Schedule 2 to the PSRs provides that, amongst other matters, the following information is to be included in or with an application for authorisation:

*“8 (1) In relation to each person holding, directly or indirectly, a qualifying holding in the applicant [firm] –*

*(a) the size and nature of their holding; and*

*(b) evidence of their suitability taking into account the need to ensure the sound and prudent management of a payment institution.*

*9 (1) the identity of directors and persons who are or will be responsible for the management of the applicant ...*

*(2) Evidence that the person described in sub-paragraph (1) are of good repute and that they possess appropriate knowledge and experience to perform payment services.”*

2. Regulation 5(4) states that, at any time after receiving an application and before determining it, the Authority may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application.
3. Regulation 6(1) states that the Authority may refuse to grant all or part of an application for authorisation as a payment institution only if any of the conditions set out in paragraphs (2) to (8) are not met.
4. Regulation 6(6) states that the applicant must satisfy the Authority that:
  - a. any persons having a qualifying holding in it are fit and proper persons having regard to the need to ensure the sound and prudent conduct of the affairs of an authorised payment institution; and
  - b. the directors and persons responsible for the management of the institution and, where relevant, the persons responsible for the management of payment services, are of good repute and possess appropriate knowledge and experience to provide payment services.

## Relevant Guidance

### *“The Authority’s role under the Payment Services Regulations 2009 – Our approach”*

5. In exercising its powers in relation to the approval of an application for authorisation as a payment institution, the Authority must have regard to guidance published in the Authority’s ‘Our approach’ document, including the section titled ‘Authorisation and registration’ (the “PSR Guidance”).
6. The paragraphs from the PSR Guidance (or extracts thereof) which are relevant to the proposal to refuse the Application are set out below. A link to the PSR Guidance can be found on the “applying to be a payment institution” page of the Authority website. There is a further link to the PSR Guidance document via the payment services title page which is a hyperlink in the PSD Individual Form. The paragraph numbers herein referred to are to the PSR Guidance which was in effect at the time the Application was made by the Applicant, that being the PSR Guidance dated January 2012.

### *Qualifying Holdings (regulation 6(6)(a), paragraph 8 of Schedule 2)*

7. Paragraph 3.49 - Whilst it is impossible to list every factor or matter that would be relevant to the fitness and propriety of a controller, the following are examples of factors that we will consider:
  - Whether the person has been convicted of any criminal offence particularly of dishonesty, fraud or financial crime;
  - Whether the person has been investigated for any criminal offence. This would include where an individual has been arrested or charged *whether or not* the investigation/arrest/charge led to a conviction...
8. Paragraph 3.51 - The details of any qualifying holdings should be submitted on the appropriate ‘Qualifying Holding’ form, which is available on the PSD section of our website. **We attach considerable importance to the completeness and accuracy of the ‘Qualifying Holding’ form. If the applicant is in doubt as to whether or not any information is relevant, it should be included.**

### *Directors and persons responsible for the management of payment services (regulation 6(6)(b), Paragraph 9 of Schedule 2)*

9. Paragraph 3.52 – Under Regulation 6(6)(b) and Paragraph 9 of Schedule 2, the applicant must satisfy the Authority that its directors and any other persons who are or will be responsible for the management of the PI or its payment services activities, are of good repute and possess appropriate knowledge and experience to perform payment services.
10. Paragraph 3.58 - We will assess the fitness and propriety of an individual on the information provided in the application form and other information available to us from our own and external sources. It may ask for more information if required.
11. Paragraph 3.62 - The factors that we will have regard to when making the fit and proper assessment are:

- (i) honesty, integrity and reputation;
- (ii) competence and capability; and
- (iii) financial soundness.

*Honesty, integrity and reputation*

12. Paragraph 3.64 - In determining the honesty, integrity and reputation of an individual, the matters that we will have regard to include, but are not limited to:
  - (i) relevant convictions or involvement in relevant criminal proceedings or investigations;...
13. Paragraph 3.65 - We will consider matters that may have arisen in the UK or elsewhere.
14. Paragraph 3.66 - The 'relevant' matters we refer to above will include offences under legislation relating to companies, banking or other financial services, serious tax offences or other dishonesty, insolvency, insurance, money laundering, market abuse, misconduct or fraud.
15. Paragraph 3.67 - The applicant firm should tell us of all relevant matters, but the Authority will consider the circumstances in relation to the requirements and standards of the PSRs. For example, a conviction for a criminal offence will not automatically mean an application is rejected. We treat each individual's application on a case-by-case basis, taking into account the seriousness of, and the circumstances surrounding, the offence, the explanation offered by the convicted individual, 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.
16. Paragraph 3.68 - If a firm is not sure whether something may have an impact on an individual's fitness and propriety, the information should be disclosed. The non-disclosure of material facts is taken very seriously by us as it is seen as evidence of current dishonesty. If in doubt, disclose.