
Final Notice

To: Simon Charles Oakley

**Individual
Reference
Number:** SCO00004

Date of Birth: March 1967

Dated: 21 September 2020

1. ACTION

1.1 For the reasons given in this Final Notice, the Authority has decided to make an order, pursuant to section 56 of the Act, prohibiting Mr Oakley from performing any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

1.2 Mr Oakley has not referred the matter to the Tribunal within 28 days of the date of which the Decision Notice was issued to him.

1.3 Accordingly, the Authority hereby makes a prohibition order in respect of Mr Oakley. The prohibition order is effective from the date of this Final Notice.

2. SUMMARY OF REASONS

2.1 As set out in more detail in the facts and matters described below, Mr Oakley pleaded guilty on 12 October 2017 to two counts of making misleading, false or

deceptive statements contrary to s.397(2) of the Financial Services and Markets Act 2000 and was sentenced to imprisonment for 30 months on 15 November 2017.

- 2.2 On the basis of the facts and matters set out below, it appears to the Authority that Mr Oakley is not a fit and proper person to perform any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm. Mr Oakley's conviction demonstrates that he is not fit and proper to perform regulated activities as his conduct demonstrated a serious degree of recklessness and therefore a lack of integrity. In reaching this decision, the Authority has had regard to all relevant circumstances, including the relevance and materiality of the offences, and the severity of the risk posed by Mr Oakley to consumers and to confidence in the market generally. The Authority considers that it is appropriate to impose the prohibition order stated in paragraph 1.1 to achieve its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).

3. DEFINITIONS

- 3.1 The definitions below are used in this Final Notice and in the Annex:

"the Act" means the Financial Services and Markets Act 2000;

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

"the Decision Notice" means the Decision Notice given to Mr Oakley in respect of this matter dated 6 August 2020;

"EG" means the Authority's Enforcement Guide;

"FIT" means the Fit and Proper Test for Employees and Senior Personnel sourcebook, part of the Handbook;

"the Handbook" means the Authority's Handbook of rules and guidance; "Mr Oakley" means Simon Charles Oakley;

"RDC" means the Regulatory Decisions Committee of the Authority (see further under Procedural Matters below); and

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

4. RELEVANT STATUTORY PROVISIONS

- 4.1 The statutory and regulatory provisions relevant to this Notice are set out in the Annex.

5. FACTS AND MATTERS

- 5.1 The conduct which resulted in Mr Oakley’s conviction and imprisonment took place whilst he was an approved person. Mr Oakley was a financial adviser. Between 27 August 2009 and 31 May 2018, Mr Oakley was approved by the Authority to perform the following controlled functions: CF1 (Director), CF10 (Compliance Oversight), CF11 (Money Laundering Reporting), CF30 (Customer) and he was Responsible for Insurance Mediation. Mr Oakley is currently not approved to perform any functions in relation to any regulated activity by the Authority.

- 5.2 Between 1 September 2010 and 1 October 2012, Mr Oakley was involved in promoting two fraudulent investment schemes where the total amount invested and lost was over £2,300,000 and 21 investors were involved. These schemes were not regulated investments. He pleaded guilty to two counts of making misleading, false or deceptive statements contrary to section 397(2) of the Act, on the basis that he did so recklessly. The prosecution accepted his pleas on this basis. He was sentenced to imprisonment for 30 months. In sentencing Mr Oakley, His Honour Judge Kearl QC stated that:

- (a) Mr Oakley’s degree of recklessness involved in the first fraudulent scheme was high and the statements that he made were irresponsible and without foundation;
- (b) Mr Oakley’s conduct in relation to the second fraudulent scheme was at an even higher level than the first fraudulent scheme. He misled people into investing in the knowledge that the first fraudulent scheme had failed and, in hiding that knowledge from the investors, this was “almost as close to fraud as is possible”;
- (c) Mr Oakley personally sold the schemes and ignored all of the red flags, repeatedly assuring investors that the schemes were working when he knew that they were not; and

- (d) the financial consequences to others had been devastating and his conduct had undermined confidence in the markets.

6. FAILINGS

Lack of fitness and propriety

- 6.1 In light of the facts and matters described above, it appears to the Authority that Mr Oakley is not a fit and proper person to perform any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. His conviction demonstrates a clear and serious lack of integrity such that he is not fit and proper to perform regulated activities.

7. SANCTION

Prohibition Order

- 7.1 The Authority has had regard to all relevant circumstances, including the relevance and materiality of the offences, the severity of the risk posed by Mr Oakley to consumers and financial institutions, and to confidence in the market generally. The Authority considers that it is appropriate to impose the prohibition order set out in paragraph 1.1 to advance its consumer protection and integrity objectives (sections 1C and 1D of the Act, respectively).
- 7.2 In making this order, the Authority has had regard to the guidance in Chapter 9 of EG (the relevant provisions of which are set out in Annex).

8. PROCEDURAL MATTERS

- 8.1 This Final Notice is given to Mr Oakley under, and in accordance with, section 390 of the Act.

- 8.2 The following paragraphs are important.

Decision-Maker

- 8.3 The decision which gave rise to the obligation to give this Final Notice was made by the RDC.

Publicity

- 8.4 Section 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates.
- 8.5 Under those provisions, the Authority must publish such information about the

matter to which this 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 in respect of this matter if, in the opinion of the Authority, such publication would be unfair to Mr Oakley, or prejudicial to the interest of consumers or detrimental to the stability of the UK financial system.

- 8.6 The Authority intends to publish this Final Notice and such information about the matter to which the Final Notice relates as it considers appropriate.

Authority Contact

- 8.7 For more information concerning this matter generally, contact Allen Kontos at the Authority (direct line: 0207 066 1634).

Martin Butcher
Manager,
Enforcement and Market Oversight
Financial Conduct Authority

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives include: securing an appropriate degree of protection for consumers (section 1C of the Act) and protecting and enhancing the integrity of the UK financial system (section 1D of the Act).
2. Section 56(1) of the Act provides:

"The [Authority] may make a prohibition order if it appears to it that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by:
 - (a) an authorised person,
 - (b) a person who is an exempt person in relation to that activity, or
 - (c) a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity."

RELEVANT REGULATORY PROVISIONS

3. In exercising its power to make a prohibition order, the Authority must have regard to guidance published in the Handbook and in regulatory guides, such as EG. The relevant main considerations in relation to the action specified above are set out below.

Enforcement Guide

4. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in EG.
5. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
6. EG 9.2 sets out the Authority's general policy on making prohibition orders. In particular:
 - (a) EG 9.2.1 states that the Authority will consider all relevant circumstances;
 - (b) EG 9.2.2 states that the Authority has the power to make a range of prohibition orders depending on the circumstances of each case; and
 - (c) EG 9.2.3 states that the scope of a prohibition order will depend on the range of functions which the individual concerned performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of risk which he poses to consumers or the market generally.

EG 9.5.1 states that where the Authority is considering whether to make a prohibition order against someone who is not an approved person, the Authority will consider the severity of the risk posed by the individual and may prohibit him

where it considers that it is appropriate to achieve one or more of the Authority's statutory objectives.

7. EG 9.5.2 states that, when considering whether to exercise its power to make a prohibition order against someone who is not an approved person, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, the factors set out in EG 9.3.2. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting the criteria set out in FIT 2.1, 2.2, and 2.3), the relevance and materiality of any matters indicating unfitness, the length of time since the occurrence of any matters indicating unfitness, and the severity of the risk which the individual poses to consumers and to confidence in the financial system.

Fit and Proper Test for Employees and Senior Personnel sourcebook

8. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
9. FIT 1.3.1B.G states that the most important considerations when assessing the fitness and propriety of a person to perform a controlled function include a person's honesty, integrity and reputation.
10. FIT 2.1.1.G states that in determining a person's honesty, integrity and reputation, the Authority will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3.G. It notes, amongst other things and by way of example, that:

"... conviction for a criminal offence will not automatically mean an application will be rejected. The [Authority] treats each candidate's application on a case-by-case basis, taking into account the seriousness of, and circumstances surrounding, the offence, the explanation offered by the convicted person, 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."
11. FIT 2.1.3.G(1) states that the matters referred to in FIT 2.1.1.G include, but are not limited to, whether a person has been convicted of any criminal offence, noting that particular consideration will be given to offences including dishonesty, fraud, financial crime or an offence under legislation relating to financial services (amongst others).