
FINAL NOTICE

To: Simon Mark Silva-Peake

Of: 214 Drake Road
Chafford Hundred
Grays
Essex
RM16 6RW

**Individual
Reference
Number:** SMS01104

Dated: 16 December 2015

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Silva-Peake.
2. The Authority gave Mr Silva-Peake the Decision Notice, which notified Mr Silva-Peake that, for the reasons given below and pursuant to section 56 of the Act, the Authority had decided to make an order prohibiting him from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
3. Mr Silva-Peake has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
4. Accordingly, for the reasons set out below, the Authority hereby makes an order pursuant to section 56 of the Act prohibiting Mr Silva-Peake 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 takes effect from 16 December 2015.

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DEFINITIONS

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

“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 Silva-Peake dated 16 September 2015;

“EG” means the Enforcement Guide;

“FIT” means the Fit and Proper Test for Approved Persons sourcebook;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“Mr Silva-Peake” means Simon Mark Silva-Peake;

“the Prohibition Order” means the order prohibiting Mr Silva-Peake, pursuant to section 56 of the Act, from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm; and

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

RELEVANT STATUTORY PROVISIONS

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

SUMMARY OF REASONS

7. The Authority has concluded, on the basis of the facts and matters and conclusions described in the Warning Notice issued to Mr Silva-Peake on 19 August 2015, and in the Decision Notice, that Mr Silva-Peake is not a fit and proper person to perform any functions as his conduct demonstrates a clear and serious lack of honesty, integrity and reputation. Specifically, on 9 June 2014, Mr Silva-Peake undertook, in accordance with section 1A of the Company Directors Disqualification Act 1986, to be disqualified as a director for 11 years. The signed undertaking also attached a schedule of unfit conduct which stated that Mr Silva-Peake caused or allowed the misappropriation of £659,270 of clients’ funds, and caused or allowed further financial losses to clients by transferring £2,063,022 of clients’ funds into inappropriate investments.

FACTS AND MATTERS RELIED ON

8. Mr Silva-Peake was approved by the Authority in relation to Quintillion Asset Management Limited to perform the controlled functions of:

- CF1 (Director) and CF11 (Money Laundering Reporting) (between 18 October 2007 and 21 November 2011); and
 - CF30 (Customer) (between 1 November 2007 and 21 November 2011).
9. On 9 June 2014, Mr Silva-Peake undertook, in accordance with section 1A of the Company Director's Disqualification Act 1986, to be disqualified from acting as a director for 11 years.
 10. The signed undertaking attached a schedule of unfit conduct which stated that Mr Silva-Peake caused or allowed the misappropriation of £659,270 of clients' funds, and caused or allowed further financial losses to clients by transferring £2,063,022 of clients' funds into inappropriate investments.
 11. The conduct set out in the schedule attached to the undertaking took place when Mr Silva-Peake was approved by the Authority to perform the controlled functions of: CF1 (Director), CF11 (Money Laundering Reporting) and CF30 (Customer), in relation to Quintillion Asset Management Limited.

DECISION MAKER

12. The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

IMPORTANT

13. This Final Notice is given to Mr Silva-Peake in accordance with section 390(1) of the Act.

PUBLICITY

14. 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 if such publication would, in the opinion of the Authority, be unfair to Mr Silva-Peake or prejudicial to the interest of consumers.
15. The Authority intends to publish this Final Notice and such information about the matter to which this Final Notice relates as it considers appropriate.

AUTHORITY CONTACT

16. For more information concerning this matter generally, please contact Adam Doe at the Authority (direct line: 020 7066 5522).

John Kirby
Enforcement and Market Oversight Division

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."
3. Section 65(2) of the Act provides:

"[A "prohibition order" is an order] prohibiting the individual from performing a specified function, any function falling within a specified description or any function."
4. Section 56(3) of the Act provides:

"A prohibition order may relate to –

 - (a) a specified regulated activity, any regulated activity falling within a specified description or all regulated activities."

RELEVANT REGULATORY PROVISIONS

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

The Enforcement Guide

6. The Authority's policy in relation to exercising its power to issue a prohibition order is set out in the EG.
7. EG 9.1 explains the purpose of prohibition orders in relation to the Authority's regulatory objectives.
8. EG 9.3 to 9.5 set out the Authority's general policy on making prohibition orders. In particular:
 - (a) EG 9.3 states that the Authority will consider all relevant circumstances, including whether enforcement action has been

- taken against the individual by other enforcement agencies, in deciding whether to make a prohibition order;
- (b) EG 9.4 states that the Authority has power to make a range of prohibition orders depending on the circumstances of each case;
 - (c) EG 9.5 states that the scope of a prohibition order will depend on the reasons why the individual is not fit and proper and the severity of risk he poses to consumers or the market generally.
9. EG 9.17 sets out 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 the Authority's statutory objectives.
10. EG 9.18 provides that, when considering whether to exercise its power to make a prohibition order against such an individual, 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 9.9. Those factors include: whether the individual is fit and proper to perform functions in relation to regulated activities (noting that criteria are 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 Approved Persons

11. The Authority has issued guidance on the fitness and propriety of individuals in FIT.
12. FIT 1.3.1G(1) states that the most important considerations when assessing the fitness and propriety of a person include that person's honesty, integrity and reputation.
13. FIT 2.1.1G sets out 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 2.1.3G.
14. FIT 2.1.3G(2) states that such matters may include, whether the person has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct or the formation or management of a body corporate.
15. FIT 2.1.3G(4) states that such matters may include, whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings.
16. FIT 2.1.3G(5) states that such matters may include, whether the person has contravened any of the requirements and standards of the regulatory system or the equivalent standards or requirements of other regulatory authorities (including a previous regulator), clearing house and exchanges, professional bodies or government bodies or agencies.

17. FIT 2.1.3G(9) states that such matters may include, whether the person has been a director, partner, or concerned in the management of a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection.
18. FIT 2.1.3G(12) states that such matters may include, whether the person has ever been disqualified from acting as a director or disqualified from acting in any managerial capacity.