

---

**FINAL NOTICE**

---

To: **Simon William Robins**

Individual reference no: SWR01039

Dated: 5 June 2009

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about a decision to withdraw your approval and to make a prohibition order:**

**1. THE ACTION**

1.1. The FSA gave you, Mr Simon Robins ( “Mr Robins”) a Decision Notice dated 5 June 2009 (“ the Decision Notice”) which notified you that, for the reasons listed below, having agreed with you the facts and matters set out below, the FSA has decided:

- (1) to withdraw the approval given to you to perform controlled functions, in relation to Chase UK Corporation Limited (“Chase/the

Firm”) pursuant to section 63 of the Financial Services and Markets Act 2000 (the “Act”); and

- (2) to make an order prohibiting you from carrying out any controlled function involving the exercise of any significant influence at any authorised person, exempt person, or exempt professional firm (“the Prohibition Order”) pursuant to section 56.

- 1.2. You agreed that you will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. You also agreed to settle at an early stage of the FSA’s investigation.
- 1.4. Accordingly, for the reasons set out below, and having agreed with you the facts and matters relied on, the FSA hereby withdraws your individual approval and makes the Prohibition Order against you as of 5 June 2009.

## **2. REASONS FOR THE ACTION**

### **Introduction**

- 2.1. You were approved to carry out the significant influence functions of CF1 (Director) and CF8 (Apportionment and Oversight).
- 2.2. The FSA decided, on the basis of the facts and matters described below, that you were not a fit and proper person, on the basis that you lacked competence and capability, and that it is appropriate to withdraw your approval and to make the Prohibition Order against you. This is demonstrated by:
  - (1) your failing to ensure that the Firm took reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who was entitled to rely upon its judgment;
  - (2) your failing to take reasonable steps to ensure that the Firm had adequate systems and controls in place to enable its mortgage advisory business to be controlled effectively; and

- (3) your failing to comply with Principle 7 of the FSA's Statements of Principle for Approved Persons (APER) which requires that an approved person performing a significant influence function must take reasonable steps to ensure that the business of the firm for which he is responsible in his controlled function complies with the relevant requirements and standards of the regulatory system.
- 2.3. By virtue of such conduct, the FSA concluded that if you continued to perform any controlled function involving the exercise of significant influence over any authorised person, exempt person, or exempt professional firm, you would pose a risk to consumers and also to the fulfilment of the FSA's market confidence and financial crime objectives.

#### **Relevant Statutory Provisions**

- 2.4. The FSA's statutory objectives, set out in section 2(2) of the Act, are: market confidence; public awareness; the protection of consumers; and the reduction of financial crime.

#### ***Withdrawal of approval***

- 2.5. Under section 63 of the Act, the FSA may withdraw the approval given under section 59 of the Act if it considers that the person in respect of whom it was given is not a fit and proper person to perform the function to which the approval relates.

#### ***Prohibition***

- 2.6. Under section 56 of the Act, if it appears to the FSA that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, exempt person or exempt professional firm, the FSA may make a prohibition order.
- 2.7. The effect of making a prohibition order is to prohibit an individual from performing functions within authorised firms and to prohibit authorised firms from employing the individual to perform specific functions. Such an order may relate to:

- (1) a specified function, any function falling within a specified description, or any function (section 56(2)); and
- (2) a specified regulated activity, any regulated activity falling within a specified description, or all regulated activities (section 56(3)(a)).

### ***Relevant Guidance***

#### The Fit and Proper Test for Approved Persons

- 2.8. The section of the FSA Handbook, entitled the Fit and Proper Test for Approved Persons ("FIT") sets out guidance on the fitness and propriety of individuals. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function and FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 2.9. FIT 1.3 provides that the FSA will have regard to a number of factors when assessing the fitness and propriety of a person and one of the most important considerations is the person's "competence and capability".
- 2.10. FIT 1.3.3G states that the guidance will be applied in general terms when the FSA is determining a person's fitness and propriety and it would be impossible to produce a definitive list of all the matters relevant to a particular determination.
- 2.11. In determining a person's competence and capability FIT 2.2 provides that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.2.1G. The guidance includes:
  - (1) whether the person satisfies the relevant FSA training and competence requirements in relation to the controlled function the person performs or is intended to perform (FIT 2.2.1G(1)); and
  - (2) whether the person has demonstrated by experience and training that the person is able, or will be able if approved, to perform the

controlled function (FIT 2.2.1G(2)).

- 2.12. Further relevant rules and guidance, including the relevant provisions of the FSA's Enforcement Guide (EG) and the Statements of Principle and Code of Practice for Approved Persons (APER) are set out in the annex to this Notice.

### **Facts and matters relied on**

#### ***Background***

- 2.13. You were approved by the FSA on 16 November 2005 to perform the controlled functions of CF1 (Director) at the firm. On 4 April 2007, you also became approved to perform CF8 (Apportionment and Oversight) responsibilities.
- 2.14. From 31 October 2004, the Firm was granted permission by the FSA to carry on the following regulated activities in relation to regulated home finance:
- (1) advising on regulated mortgage contracts;
  - (2) agreeing to carry on a regulated activity;
  - (3) arranging regulated mortgage contracts; and
  - (4) making arrangements.
- 2.15. On 12 June 2007, the Firm was also granted permission to carry on the following additional regulated activities in relation to insurance mediation:

- (1) making arrangements.

#### ***Failure to ensure suitability of advice***

- 2.16. You failed to take reasonable steps to ensure that the Firm gave suitable advice to customers. This is demonstrated by;
- (1) the Firm failing to obtain and record sufficient Know Your Customer ("KYC") information to establish customers' needs and objectives at the time the recommendations were being made to customers.

- (2) the assessment and recording of the affordability of recommended mortgage contracts was inadequate and irregular. For example whether or not affordability assessments were conducted depended largely on the discretion of the individual advisers. In 60 per cent of the cases reviewed the firm failed to record a detailed assessment of affordability and therefore it was unable to determine whether the mortgage was affordable.
- (3) you admitting during interview, that the Firm did not assess the affordability of regulated mortgage contracts until mid 2007.
- (4) the Firm failing to record and being unable to demonstrate the reasons for the particular recommendations it made to its customers. For example, the 'Reasons Why' file notes contained insufficient information to explain why a particular product, lender or term had been recommended in respect of customers' needs, preferences and personal and financial information. In the two instances where the files contained suitability letters, it post dated the mortgage offer.
- (5) none of the files contained any evidence of product research having been carried out.

2.17. The FSA considers that the Firm's failures with regards to KYC and affordability assessments exposed customers to the risk of receiving potential unsuitable advice.

#### ***Management and Systems & Controls***

2.18. The FSA has concluded that you failed to take reasonable steps to ensure that the Firm had adequate systems and controls in place to enable its mortgage advisory business to be controlled effectively. This is demonstrated by:

- (1) the Firm's management information systems failed adequately to monitor the business submitted by the introducers and advisers. There were no systems and controls in place to monitor the quality of business introduced by third parties and on which the Firm relied

heavily;

- (2) the Firm's training and competency regime was rarely put into practice, and the Firm failed to undertake regular competency assessments of its advisers. The Firm took no steps to assess advisers as competent on an ongoing basis;
- (3) the Firm operated without any formal compliance monitoring procedures. The Firm failed to take reasonable steps to ensure that client files were reviewed and that the suitability of the advice was monitored and assessed. You purportedly reviewed 20% of all business written by the advisers. However, no records of file reviews were kept and no issues of concern were ever recorded; and
- (4) the Firm failed to retain client files adequate copies of key documents, including the mortgage application, Initial Disclosure Document and Key Facts Illustration.

#### ***Advisers & Financial Crime Risk***

2.19. You failed to have any systems and controls in place within the Firm to ensure that one particular adviser, Adviser "A" was adequately monitored. You also failed to monitor advisers more generally and thereby failed to minimise the risk that the firm might be used for the purposes of financial crime. More specifically you:

- (1) allowed Adviser A to accept fact finds and mortgage applications completed by an introducer, without conducting any checks to establish the authenticity and/or accuracy of the information provided;
- (2) permitted the introducer to certify documents and verify information on behalf of Adviser A and allowed Adviser A to submit that business through the firm thereby exposing the Firm to the risk of financial crime and money laundering;
- (3) failed to take appropriate steps, despite being aware that Adviser A's

removal from a lender's panel was due to the poor quality of introduced business and continuing to allow Adviser A to accept business from the same source; and

- (4) delegated the responsibility for monitoring and supervising advisors to someone else and over whom you had little or no control. As a result, the last "one to one" meeting with advisors were conducted in 2006.

2.20. As a result of these failings you exposed the Firm to the risk that it would be used for the purpose of financial crime.

### **Analysis of breaches**

2.21. The failures particularised above demonstrate that you are not a fit and proper person and that you are lacking competence and capability. These failures also demonstrated that you failed to meet the requirements of Principle 7 of APER. The FSA considered that these matters are demonstrated by you:

- (1) failing to take reasonable steps to implement adequate management information systems and to inform yourself about the affairs of the business. Furthermore, you failed to monitor the levels and quality of introduced business. You allowed advisers to accept and submit mortgage applications completed by third parties;
- (2) failing to ensure that the Firm took reasonable steps to obtain from customers all information likely to be relevant for the purposes of recommending a specific mortgage contract;
- (3) failing to ensure that the Firm adequately recorded why a particular mortgage product had been recommended as suitable; and
- (4) failing to follow the Firm's training and competency regime, and failing to assess advisers as competent on an ongoing basis. File reviewing procedures were insufficient to monitor advisers adequately. You delegated the responsibility to supervise and



monitor the activities of advisors to someone else, over whom you had little or no control.

- 2.22. The consequences of the failures identified in this Notice meant that the Firm was used by third parties to obtain mortgage applications on a fraudulent basis.
- 2.23. Your failures exposed the Firm to the risk of being used for the purpose of facilitating financial crime.

### **Analysis of sanction**

- 2.24. The FSA considered that you are responsible for the failures summarised in this Notice, and that your conduct falls well below the standards expected of approved persons performing significant influence functions. Accordingly, the FSA considered that it necessary to withdraw your approval as you have not exhibited the competence and capability required of an approved person and therefore you are not a fit and proper person to perform the controlled functions for which you are approved.
- 2.25. Further, the FSA considered that you pose an ongoing risk to consumers if you were to continue to exercise any significant influence controlled function in an authorised firm. Accordingly, the FSA considered that it is necessary to make a Prohibition Order prohibiting you from performing significant influence functions.

### **Mitigation**

- 2.26. On 14 April 2008, you applied to cancel the Firm's Part IV permission and placed the firm into administration.
- 2.27. You co-operated fully with the FSA and agreed the facts quickly ensuring efficient resolution of the matter.

## **3. CONCLUSIONS**

- 3.1. On the basis of the facts and matters set out in section 2 above, the FSA has concluded that you are not fit and proper to be an approved person carrying out significant influence functions because you have failed to meet the required standards expected of approved persons in terms of competence and capability and that a

Prohibition Order prohibiting you from exercising any significant influence controlled function in an authorised firm is appropriate.

**4. DECISION MAKERS**

4.1. The decision which gave rise to the obligation to give this Final Notice was made by Settlement Decision Makers on behalf of the FSA

**5. IMPORTANT**

5.1. This Final Notice is given to you in accordance with section 390 of the Act.

**Representations**

**Publicity**

5.2. 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. 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 interest of consumers.

5.3. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

**FSA contacts**

5.4. For more information concerning this matter generally, you should contact Paul Howick (direct line: 020 7066 7954 / email paul.howick@fsa.gov.uk) of the Enforcement Division of the FSA.

.....

**Jonathan Phelan**  
**Head of Department**

**FSA Enforcement Division**

# Annex

## **Statements of Principle and Code of Practice for Approved Persons ("APER")**

APER sets out the Statements of Principle in respect of approved persons. APER also describes conduct which, in the opinion of the FSA, does not comply with the relevant Statements of Principle. It further describes factors to be taken into account in determining whether an approved person's conduct complies with a Statement of Principle.

APER 3.1.3G states that when establishing compliance with, or a breach of, a Statement of Principle, account will be taken of the context in which a course of conduct was undertaken, the precise circumstances of the individual case, the characteristics of the particular controlled function and the behaviour expected in that function.

APER 3.1.4G states that an approved person will only be in breach of a Statement of Principle if they are personally culpable, that is, in a situation where their conduct was deliberate or where their standard of conduct was below that which would be reasonable in all the circumstances.

In determining whether your conduct amounts to a breach of a Statement of Principle, the FSA has had regard to the guidance and examples in APER 4.6 and APER 4.7, in particular:

- (1) In the opinion of the FSA, conduct of the type described below does not comply with Statement of Principle 6.
  - (a) APER 4.6.3E Failing to take reasonable steps to adequately inform himself about the affairs of the business for which he is responsible;  
and
  - (c) APER 4.6.8E Failing to supervise and monitor adequately the individual or individuals to whom responsibility for dealing with an issue or authority for dealing with a part of the business has been delegated.
- (2) In the opinion of the FSA, conduct of the type described in below does not

comply with Statement of Principle 7.

- (a) APER 4.7.3E Failing to take reasonable steps to implement adequate and appropriate systems of control to comply with the relevant requirements and standards of the regulatory system in respect of its regulated activities. In the case of an approved person who is responsible, under SYSC 2.1.3R(2), with overseeing the firm's obligation under SYSC 3.1.1R, failing to take reasonable care to oversee the establishment and maintenance of appropriate systems and controls.
- (b) APER 4.7.4E Failing to take reasonable steps to monitor compliance with the relevant requirements and standards of the regulatory system in respect of its regulated activities.
- (c) APER 4.7.10E In the case of an approved person performing a significant influence function responsible for compliance under SYSC 3.2.8R failing to take reasonable steps to ensure that appropriate compliance systems and procedures are in place.

### **The FSA's policy in relation to disciplinary powers**

- 5.5. The FSA policy in relation to the decision to make a prohibition order is set out in Chapter 9 of EG.
- 5.6. EG 9.4 sets out the general scope of the FSA's powers in this respect, which include the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant.
- 5.7. EG 9.5 provides that the scope of a prohibition order will vary according to 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.
- 5.8. EG 9.9 provides that when deciding whether to make a prohibition order the FSA will

consider all the relevant circumstances of the case, which may include (but are not limited to):

- (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety are set out in the Fit and Proper test for Approved Persons (“FIT”) in FIT 2.1 (Honesty, integrity and reputation), FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
- (2) the relevance and materiality of any matters indicating a lack of fitness and propriety;
- (3) the length of time since the occurrence of any matters indicating lack of fitness and propriety; and
- (4) the severity of the risk which the individual poses to consumers and to confidence in the financial system.

In summary, the relevant considerations are whether, in terms of honesty, integrity and reputation, competence and capability, and financial soundness, the relevant individual is fit and proper to perform functions in relation to regulated activities and, if not, the severity of the risk posed by him. Having established these matters, it can be determined whether prohibition will be necessary to achieve the FSA’s regulatory objectives and what scope of prohibition would best serve the achievement of those objectives in each case.