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**FINAL NOTICE**

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**To:** Tomilola Omolola Ogunmoye  
**Address:** 222 Barking Road  
London  
E6 3BB

**Individual FSA reference:** TXO01147

**Date of birth:** 8 April 1982

**Dated:** 22 September 2009

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about the following action:**

**1. ACTION**

- 1.1. The FSA gave you, Tomilola Omolola Ogunmoye (“Ms Ogunmoye”), a Decision Notice dated 18 August 2009 which notified you that it had decided, pursuant to section 56 of the Financial Services and Markets Act 2000 (“FSMA”), to make an order prohibiting you from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
- 1.2. You did not refer the matter to the Financial Services and Markets Tribunal within 28 days of the date on which the Decision Notice was given to you.
- 1.3. Accordingly, for the reasons set out below, the FSA hereby makes an order, pursuant to section 56 of FSMA, prohibiting you from performing any function in

relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm. The Prohibition Order takes effect from 22 September 2009.

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

2.1 By the Decision Notice dated 18 August 2009 FSA concluded that:

- (1) Ms Ogunmoye knowingly declared false and misleading information about her income to four lenders in an attempt to obtain mortgages for herself; and
- (2) Ms Ogunmoye did not co-operate with the FSA in that she:
  - (a) failed to provide the FSA with a sample of mortgage client files following a compelled document requirement; and
  - (b) failed to respond to the FSA investigators despite numerous attempts by them to contact her and despite her knowledge of the FSA investigation.

## **3. STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY**

3.1. The relevant statutory provisions, regulatory guidance and policy are set out as an Annex to this Notice.

## **4. FACTS AND MATTERS RELIED ON**

### **Background**

4.1. Ms Ogunmoye operated as a mortgage adviser in Barking, London. Ms Ogunmoye has never been a directly authorised person but she has in the past acted as an appointed representative for an authorised principal. Ms Ogunmoye is or has been a director of various companies, including Excel Mortgage Limited, Excel Property Limited and Array Mortgage Solutions Limited.

### **Personal mortgage applications**

- 4.2. On 14 August 2006, Ms Ogunmoye submitted a mortgage application for herself to Lender A. On the mortgage application form, she declared an income of £63,249 in 2004, £68,575 in 2005 and £70,857 in 2006.
- 4.3. On 18 August 2006, Ms Ogunmoye submitted a mortgage application for herself to Lender B. On the mortgage application form, she declared an income of £65,575. Ms Ogunmoye claimed to have received income of £63,240 in 2004, £64,870 in 2005 and £65,575 in 2006 in connection with this application.
- 4.4. On 13 September 2006, Ms Ogunmoye submitted a mortgage application for herself to Lender C. On the mortgage application form, she declared an income of £34,136 in 2004, £38,744 in 2005 and £41,058 in 2006.
- 4.5. On 28 April 2008, Ms Ogunmoye submitted a mortgage application for herself to Lender D. She provided accounts and an accountant's reference which showed her income to be £54,125 in 2005, £54,320 in 2006 and £59,340 in 2007.
- 4.6. Two of the applications appear to relate to the same property and the other two applications to two different properties. Furthermore, the first three applications were submitted within a period of approximately five weeks.
- 4.7. Ms Ogunmoye declared different income figures to the four lenders for the same financial years. Of the four applications, one was approved, two were rejected and one was declined after it was identified as suspicious. She also applied for more than one mortgage on a residential basis.
- 4.8. Furthermore, the sets of income figures declared to lenders bear no relation to the income figures that were reported to Her Majesty's Revenue and Customs ("HMRC") by Ms Ogunmoye. According to HMRC records, she declared a gross income of £59 in 2004/05. No income or tax data is held on Ms Ogunmoye for subsequent years. She failed to provide an explanation for the discrepancy.

## **Readiness and willingness to comply with requirements and standards under the regulatory system**

- 4.9. The FSA required Ms Ogunmoye to produce a sample of mortgage client files under a compelled document requirement. She failed to do so. The FSA attempted to contact her on a number of occasions with regard to issues raised during the course of the investigation. Again, she failed to respond to the FSA's enquiries.

## **5. CONCLUSIONS**

- 5.1. Ms Ogunmoye knowingly and intentionally submitted four mortgage applications based on false and misleading information about her income for the purpose of obtaining mortgages for herself. In the absence of an explanation from her for the discrepancy between the figures included in the various mortgage applications and the figures held by the HMRC, the FSA inferred that the mortgage applications were based on false and misleading information, designed to defraud the lenders.
- 5.2. By using false and misleading information about her income to obtain mortgages for herself, she failed to act with honesty and integrity. As a consequence of her lack of honesty and integrity, a lender agreed to provide her with a mortgage without being given all the relevant information to assess the risk of her defaulting on mortgage payments (i.e. credit risk).
- 5.3. Ms Ogunmoye did not co-operate with the FSA in that she did not produce a sample of her mortgage client files or respond to the FSA's enquiries.
- 5.4. Mortgage fraud has contributed to destabilisation of the lending market and the FSA must therefore continue to deal robustly with this type of misconduct by mortgage intermediaries.
- 5.5. The prohibition of Ms Ogunmoye is therefore necessary and proportionate. Taking action against her is consistent with the FSA's policy of seeking to prevent individuals lacking in honesty and integrity from performing any functions in relation to any regulated activities carried out by any authorised person, exempt person or exempt professional firm, in support of the FSA's financial crime and market confidence

## **6. DECISION MAKER**

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

## **7. IMPORTANT**

7.1. This Final Notice is given to you in accordance with section 390 of FSMA.

### **Publicity**

7.2. Sections 391(4), 391(6) and 391(7) of FSMA 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. 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.

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

### **FSA contacts**

7.4 For more information concerning this matter generally, you should contact Chris Walmsley of the Enforcement Division of the FSA (direct line: 020 7066 5894/fax 020 7066 5895).

**Tom Spender**  
**Head of Department**  
**Enforcement Division**

**Annex**

## **STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY**

### **Statutory objectives**

The FSA's statutory objectives, set out in section 2(2) of FSMA, include market confidence, the protection of consumers and the reduction of financial crime.

### **Prohibition orders**

The FSA has the power, by virtue of section 56 of FSMA, to make an order prohibiting you from performing a specified function, any function falling within a specified description or any function, if it appears to the FSA that you are not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person. Such an order may relate to a specific regulated activity, an activity falling within a specified description or all regulated activities.

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

The part of the FSA Handbook entitled "FIT" sets out the Fit and Proper Test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function. FIT is also relevant in assessing the continuing fitness and propriety of an individual who is not an approved person.

FIT 1.3.1G provides that the FSA will have regard to a number of factors when assessing a person's fitness and propriety. One of the most important considerations will be the person's honesty, integrity and reputation.

In determining a person's honesty, integrity and reputation, FIT 2.1 provides that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.1.3G. The guidance includes:

- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G (5)); and
- (2) whether, in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness

to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards (FIT 2.1.3G (13)).

### **FSA's policy for exercising its power to make a prohibition order**

The FSA's approach to exercising its powers to make prohibition orders and withdraw approvals is set out at Chapter 9 of the Enforcement Guide ("EG").

EG 9.4 sets out the general scope of the FSA's power 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. 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.

EG 9.17 to 9.18 provide guidance on the FSA's exercise of its power to make a prohibition order against an individual who is not an approved person. The FSA will consider the severity of the risk posed by the individual and may prohibit the individual where it considers this is appropriate to achieve one or more of its regulatory objectives. When considering whether to exercise its power to make a prohibition order against such an individual, the FSA will consider all the relevant circumstances of the case, which may include but are not limited to the factors set out in EG 9.9.

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 FIT 2.1 (Honesty, integrity and reputation), FIT2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
- (2) the relevance and materiality of any matters indicating unfitness;
- (3) the length of time since the occurrence of any matters indicating unfitness; and

- (4) the severity of the risk which the individual poses to consumers and to confidence in the financial system.