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## FIRST SUPERVISORY NOTICE

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**To:** **AMI Professional Services Limited**

**Of:** **Heybridge Business Centre  
110 The Causeway  
Heybridge  
Maldon  
Essex  
CM9 4ND**

**Firm  
Reference  
Number:**

**562657**

**Dated:** **1 August 2014**

### ACTION

1. For the reasons given below and pursuant to section 55J of the Act, the Authority has decided to vary the permission granted to AMI Professional Services Limited ("AMI") pursuant to Part 4A of the Act, by removing all of its regulated activities with immediate effect. Accordingly, AMI's Part 4A permission no longer includes the regulated activities of:
  - (a) advising on investments (except on Pension Transfers and Pension Opt Outs);
  - (b) agreeing to carry on a regulated activity;
  - (c) arranging (bringing about) deals in investments;
  - (d) assisting in the administration and performance of a contract of insurance;
  - (e) dealing in investments as agent; and

- (f) making arrangements with a view to transactions in investments.
2. The Authority has further decided to impose the following requirements, pursuant to section 55L of the Act, namely that AMI must, within 14 days from the date on which this First Supervisory Notice is given:
- (a) notify in writing all clients for AMI's regulated activities that it is no longer permitted by the Authority to carry on regulated activities; and
  - (b) provide the Authority with a copy of the written notification sent to all clients for its regulated activities pursuant to (a) above, together with a list of all clients to whom such notification has been sent.

## **REASONS FOR ACTION**

3. The Authority has concluded, on the facts and matters described below, that AMI is failing to satisfy the Threshold Conditions. In the opinion of the Authority, AMI's financial resources are not appropriate in relation to the regulated activities it carries on, or seeks to carry on. Specifically, AMI has failed to maintain PII. AMI is therefore failing to satisfy the appropriate resources Threshold Condition and in breach of Principle 4 (Financial prudence) of the Authority's Principles for Businesses ("the Principles").

## **DEFINITIONS**

4. The definitions below are also used in this First Supervisory 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;

"AMI's Part 4A permission" means AMI's permission pursuant to Part 4A of the Act;

"PII" means Professional Indemnity Insurance;

"the Threshold Conditions" means the threshold conditions set out in Part 1B of Schedule 6 to the Act; and

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber).

## **FACTS AND MATTERS RELIED ON**

5. AMI was authorised by the Authority on 2 April 2012 to conduct insurance mediation.
6. The Authority has concluded that AMI has not maintained PII (as AMI has failed to satisfy the Authority that it has maintained PII, despite having had reasonable opportunity to do so).

## **FAILINGS**

7. The regulatory provisions relevant to this First Supervisory Notice are set out in the Annex.
8. From the facts and matters described above the Authority, having regard to its operational objectives, has reached the following conclusions:
  - by failing to maintain compliant PII, AMI is failing to make appropriate provision in respect of its liabilities, including contingent and future liabilities. AMI is therefore failing to satisfy the appropriate resources threshold condition in paragraph 2D of Schedule 6 to the Act;
  - AMI is in breach of Principle 4 (Financial prudence) of the Principles, which states that a firm must maintain adequate financial resources;
  - the risk of loss or other adverse effect on consumers by AMI's failings, which are material breaches of regulatory requirements which apply to it, causes the Authority to have very serious concerns about AMI such that the exercise of the Authority's own-initiative powers to vary AMI's Part 4A permission, and to impose on AMI the requirements set out above, with immediate effect are appropriate responses to those concerns; and
  - it is necessary to exercise the Authority's own-initiative powers to vary AMI's Part 4A permission, and to impose the requirements on AMI set out above, with immediate effect, having regard to AMI's failure to satisfy the appropriate resources threshold condition; and
  - specifically, the variation of AMI's Part 4A permission, and the imposition on AMI of the requirements set out above, should take immediate effect to address the Authority's serious concern that claims for which AMI is uninsured might arise.

## **PROCEDURAL MATTERS**

9. This First Supervisory Notice is given to AMI under section 55Y(4) and in accordance with section 55Y(5) of the Act.

### **Decision Maker**

10. The decision which gave rise to the obligation to give this First Supervisory Notice was made by a Deputy Chairman of the Regulatory Decisions Committee.

### **The Tribunal**

11. IFS has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. The Tax and Chancery Chamber is the part of the Tribunal which, amongst other things, hears references arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, IFS has 28 days from the date on which this First Supervisory Notice is given to IFS to refer the matter to the Tribunal.
12. A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by IFS and filed with a copy of this First Supervisory Notice. The Tribunal's

contact details are: The Upper Tribunal, Tax and Chancery Chamber, 45 Bedford Square, London WC1B 3DN (telephone: 020 7612 9700; email: FS@tribunals.gsi.gov.uk).

13. For further information on the Upper Tribunal (including the power to vary time periods) you should refer to the HM Courts and Tribunal Service website which will provide guidance and the relevant form to complete. The relevant page on HM Courts and Tribunal Service website can be accessed via the following link:

<http://www.justice.gov.uk/forms/hmcts/tax-and-chancery-upper-tribunal>

14. IFS should note that a copy of the reference notice (Form FTC3) must also be sent to the Authority at the same time as filing a reference with the Tribunal. A copy of the reference notice should be sent to Adam Doe at the Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.

### **Representations**

15. AMI has the right to make written and oral representations to the Authority (whether or not it refers this matter to the Tribunal). The deadline for providing written representations to the Authority and also to notify the Authority that it wishes to make oral representations is 21 August 2014, or such later date as may be permitted by the Authority. Written representations should be made to the Regulatory Decisions Committee and sent to:

Nathaniel Barber  
RDC Secretariat  
Financial Conduct Authority  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

### **Publicity**

16. AMI should note that section 391 of the Act requires the Authority when the First Supervisory Notice takes effect (and this First Supervisory Notice takes immediate effect), to publish such information about the matter as it considers appropriate.

### **Contacts**

17. For more information concerning this matter generally, AMI should contact Adam Doe at the Authority (direct line: 020 7066 5522/ Email: adam.doe@fca.org.uk).
18. If AMI has any questions regarding the procedures of the Regulatory Decisions Committee, it should contact Nathaniel Barber (direct line: 020 7066 7406/ Email: nathaniel.barber@fca.org.uk) or Jackie Noonan (direct line: 0207 066 3074/ Email: jackie.noonan@fca.org.uk).

**Peter Hinchliffe**  
**Deputy Chairman, Regulatory Decisions Committee**

## **ANNEX**

### **RELEVANT STATUTORY PROVISIONS**

1. Section 1A(1) of the Act states that the body corporate previously known as the Financial Services Authority is renamed the Financial Conduct Authority.
2. The Authority's operational objectives established in section 1B of the Act include the protection of consumers.
3. The Authority is authorised by section 55J of the Act to exercise the following powers:
  - to vary an authorised person's permission where it appears to the Authority that such person is failing to satisfy the threshold conditions (section 55J(1)(a));
  - to vary an authorised person's permission where it appears to the Authority that it is desirable to do so to advance any of its operational objectives (section 55J(1)(c)(i));
  - to vary such a permission by removing a regulated activity from those for which the permission is given (section 55J(2)(a)(ii)); and
  - to include any provision in the permission as varied that could be included if a fresh permission were being given in response to an application under section 55A of the Act (section 55J(10)).
4. The Authority is authorised by section 55L of the Act to impose a new requirement on an authorised person with a Part 4 permission if it appears to the Authority that such person is failing to satisfy the Threshold Conditions (section 55L(2)(a)) or it is desirable to do so to advance one or more of the Authority's operational objectives (section 55L(2)(c)).
5. Section 55N of the Act provides that a requirement may be imposed so as to require the person concerned to take specified action or so as to require the person concerned to refrain from taking specified action.
6. Section 55Y of the Act allows such a variation or requirement to take effect immediately (or on a specified date) only if the Authority having regard to the ground on which it is exercising its own-initiative power, reasonably considers that it is necessary for the variation to take effect immediately (or on that date).
7. Section 391 of the Act provides that:

“[...]

(5) When a supervisory notice takes effect, the [Authority] must publish such information about the matter to which the notice relates as it considers appropriate.

[...]

(6) The [Authority] may not publish information under this section if, in its opinion, publication of the information would be-

(a) unfair to the person with respect to whom the action was to be taken [...], [or]

(b) prejudicial to the interests of consumers

[...]

(7) Information is to be published under this section in such manner as the [Authority] considers appropriate."

8. Paragraph 2D of Part 1B of Schedule 6 to the Act sets out the appropriate resources Threshold Condition which provides that:

"(1) The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on."

## **RELEVANT HANDBOOK PROVISIONS**

9. In exercising its power to vary a Part 4A permission, the Authority must have regard to guidance published in the Authority's Handbook of Rules and Guidance ("the Handbook"). The relevant main considerations in relation to the action specified above are set out below.

### **Relevant Rule**

10. Rule MIPRU 3.2.1R in the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries ("MIPRU") states:

"A *firm* must take out and maintain professional indemnity insurance that is at least equal to the requirements in this section from:

(1) an *insurance undertaking* which is authorised to transact professional indemnity insurance in the EEA; or

(2) a *person* of equivalent status in:

(a) a Zone A country;

(b) the Channel Islands, Gibraltar, Bermuda or the Isle of Man."

### **Relevant Principle**

11. Principle 4 (Financial prudence) of the Principles, states that a firm must maintain adequate financial resources.

## **Guidance concerning the relevant Threshold Condition**

12. Guidance on the Threshold Conditions is set out in the part of the Handbook entitled Threshold Conditions ("COND").

#### COND 2.4 Appropriate resources (paragraph 2D of Part 1B of Schedule 6 to the Act)

13. COND 2.4.1AUK, states that the resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on.
14. COND 2.4.1BG provides that paragraph 2D of Schedule 6 to the Act sets out the appropriate resources threshold condition for firms carrying on, or seeking to carry on regulated activities, which do not include a PRA regulated activity.
15. COND 2.4.4G(2) provides that the relevant matters to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, the appropriate resources threshold condition may include whether the firm is likely to have difficulties in complying with any of the Authority's prudential rules (COND 2.4.4G(2)(a)).

#### **OTHER RELEVANT REGULATORY PROVISIONS**

16. The Authority's policy in relation to its enforcement powers is set out in the Enforcement Guide (EG), certain provisions of which are summarised below.
17. EG 8.1(1) reflects the provisions of sections 55J and 55L of the Act that the Authority may use its own-initiative power to vary or cancel the permission of an authorised firm and impose requirements where a firm is failing or is likely to fail to satisfy the threshold conditions.

#### Varying a firm's Part 4A permission on the Authority's own-initiative

18. EG 8.1B provides that the Authority will have regard to its statutory objectives and the range of regulatory tools that are available to it, when it considers how it should deal with a concern about a firm.
19. EG 8.3 provides that the Authority will exercise its formal powers under section 55J or 55L of the Act, where the Authority considers it is appropriate to ensure a firm meets its regulatory requirements. EG 8.3(1) specifies that the Authority may consider it appropriate to exercise its powers where it has serious concerns about a firm or the way its business is being or has been conducted.
20. EG 8.5(1)(a) specifies that the Authority will consider exercising its own-initiative power under section 55J(1)(a) or 55L(2)(a) of the Act, where the firm appears to be failing, or appears likely to fail, to satisfy the threshold conditions relating to one or more, or all, of its regulated activities. EG 8.5(1)(a) states that one circumstance is where a firm's resources are inappropriate as it has failed to manage risk with PII.

#### Use of the own-initiative powers in urgent cases

21. EG 8.6 states that the Authority may impose a variation of permission so that it takes effect immediately or on a specified date if it reasonably considers it necessary for the variation to take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative powers.
22. EG 8.7 provides the circumstances in which the Authority will consider exercising its own initiative power as a matter of urgency, include where the information

available to it indicates serious concerns about the firm or its business that need to be addressed immediately (EG 8.7(1)).

23. EG 8.8 provides an example of situations which will give rise to such serious concerns. Specifically, EG 8.8(4) includes where circumstances suggest a serious problem within a firm that call into question the firm's ability to continue to meet the threshold conditions.
24. EG 8.9 sets out the factors which will determine whether the urgent exercise of the Authority's own-initiative power is appropriate, including the extent of any risk of consumer loss or other adverse effect on consumers (EG 8.9(1)).