
FIRST SUPERVISORY NOTICE

To: **Christopher John Riches trading as Fairway Mortgages**

Of: **23 Suttons Lane
Hornchurch
Essex
RM12 6RD**

FSA Reference
Number: **313549**

Dated: **26 June 2012**

ACTION

1. For the reasons given below and pursuant to section 45 of the Financial Services and Markets Act 2000 (the “Act”), the FSA has decided to vary the permission granted to Christopher John Riches (“Mr Riches”) pursuant to Part IV of the Act (“Mr Riches’s Part IV permission”), by removing all of his regulated activities with immediate effect. Accordingly, Mr Riches’s Part IV permission no longer includes the regulated activities of:
 - (a) Advising on investments (except on Pension Transfers and Pension Opt Outs);
 - (b) Advising on regulated mortgage contracts;
 - (c) Agreeing to carry on a regulated activity;
 - (d) Arranging (bringing about) deals in investments;
 - (e) Arranging (bringing about) regulated mortgage contracts;
 - (f) Making arrangements with a view to regulated mortgage contracts; and
 - (g) Making arrangements with a view to transactions in investments.

2. The FSA has further decided to vary Mr Riches's Part IV permission by imposing the following requirements, pursuant to section 43 of the Act, namely that Mr Riches must:
 - (a) within 14 days notify in writing all clients for his regulated activities that he is no longer permitted by the FSA to carry on regulated activities; and
 - (b) within 14 days provide the FSA with a copy of the written notification sent to all clients for his 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 FSA has concluded, on the facts and matters described below, that Mr Riches is failing to satisfy the threshold conditions set out in Part 1 of Schedule 6 to the Act (the "Threshold Conditions"). In the opinion of the FSA, Mr Riches can no longer satisfy the FSA that he is fit and proper to conduct regulated activities as he has not conducted his business soundly and prudently and in compliance with proper standards. Specifically, Mr Riches has failed to conduct his business with honesty and integrity, in breach of Principle 1 (Integrity) of the FSA's Principles for Businesses (the "Principles").
4. Mr Riches has also not been open and co-operative in all of his dealings with the FSA, in breach of Principle 11 (Relations with regulators) of the Principles under which firms must co-operate with the FSA.

FACTS AND MATTERS RELIED ON

5. Mr Riches was granted authorisation by the FSA on 31 October 2004 to conduct regulated home finance business, and on 14 January 2005 was also permitted to conduct insurance mediation business.
6. Mr Riches varied his Part IV permission on 12 January 2010, to add a requirement to cease to conduct regulated activities. Since that date, Mr Riches has completed at least 69 regulated mortgage transactions, despite not having the permission to do so. This is a breach of Section 20(1) of the Act.
7. In addition, Mr Riches has submitted false and misleading information to the FSA in the Retail Mediation Activities Returns for the periods ended 31 March 2010, 30 September 2010 and 31 March 2011, in each of which Mr Riches stated that he held Professional Indemnity Insurance ("PII") when in fact he did not hold any PII.

FAILINGS

8. The regulatory provisions relevant to this First Supervisory Notice are set out in the Annex.
9. From the facts and matters described above the FSA, having regard to its regulatory objectives, has reached the following conclusions:
 - Mr Riches has conducted regulated activities despite not having the permission to do so over a prolonged period of time, and therefore has failed to conduct his

business with honesty and integrity, or in compliance with proper standards and he therefore no longer satisfies the FSA that he is a fit and proper person to conduct regulated activities as required by Threshold Condition 5 (Suitability);

- Mr Riches has submitted false and misleading information to the FSA, and has therefore failed to act with honesty and integrity, and is also failing to comply with Principle 11 (Relations with regulators) of the Principles, and he therefore no longer satisfies the FSA that he is ready, willing and organised to comply with the requirements and standards of the regulatory system as required by Threshold Condition 5 (Suitability);
- the risk of loss or other adverse effect on consumers by Mr Riches's failings, which are material breaches of requirements imposed on him by the FSA's rules, causes the FSA to have very serious concerns about Mr Riches such that the exercise of the FSA's own-initiative power to vary Mr Riches's Part IV permission with immediate effect is an appropriate and reasonable response to those concerns;
- it is desirable to exercise the FSA's own initiative power to vary Mr Riches's Part IV permission with immediate effect to meet its regulatory objectives, and specifically in relation to Mr Riches, the objective of the protection of consumers; and
- specifically, the variation of Mr Riches's Part IV permission should take immediate effect to address the FSA's serious concern that Mr Riches has conducted regulated activities over a prolonged period of time when he knew he did not have permission to conduct those activities, and that Mr Riches has repeatedly provided false and misleading information to the FSA, and as such Mr Riches presents a significant risk to consumers.

PROCEDURAL MATTERS

Decision Maker

10. The decision which gave rise to the obligation to give this First Supervisory Notice was made by the Acting Chairman of the Regulatory Decisions Committee.
11. This First Supervisory Notice is given to Mr Riches under section 53(4) and in accordance with section 53(5) of the Act, and is being served on Mr Riches at his place of business as last notified to the FSA. The following statutory rights are important.

The Tribunal

12. Mr Riches has the right to refer the matter to which this First Supervisory Notice relates to the Upper Tribunal (the "Tribunal"). The Tax and Chancery Chamber is the part of the Tribunal which, amongst other things, hears references arising from decisions of the FSA. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, Mr Riches has 28 days from the date on which this First Supervisory Notice is given to him to refer the matter to the Tribunal.

13. A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by Mr Riches 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: financeandtaxappeals@tribunals.gsi.gov.uk).
14. Further details are contained in "Making a Reference to the UPPER TRIBUNAL (Tax and Chancery Chamber)" which is available from the Tribunal website:

<http://www.tribunals.gov.uk/financeandtax/FormsGuidance.htm>
15. Mr Riches should note that a copy of the reference notice (Form FTC3) must also be sent to the FSA at the same time as filing a reference with the Tribunal. A copy of the reference notice should be sent to Kathryn Willis at the FSA, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Representations

16. Mr Riches has the right to make written and oral representations to the FSA (whether or not he refers this matter to the Tribunal). If Mr Riches wishes to make written representations he must do so by 31 July 2012 or such later date as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Jane Hendley, Regulatory Decisions Committee Professional Support Services. The Regulatory Decisions Committee Professional Support Services' address is: 25 The North Colonnade, Canary Wharf, London E14 5HS. If Mr Riches wishes to make oral representations, he should inform the FSA of his intention to do so by 9 July 2012. If Mr Riches does not notify the FSA by 9 July 2012, he will not, other than in exceptional circumstances, be able to make oral representations.

Publicity

17. Mr Riches should note that section 391 of the Act requires the FSA 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.

FSA contacts

18. For more information concerning this matter generally, Mr Riches should contact Kathryn Willis at the FSA (direct line: 020 7066 2098 / fax: 020 7066 2099).
19. If Mr Riches has any questions regarding the procedures of the Regulatory Decisions Committee, he should contact Jane Hendley (direct line: 020 7066 3200).

Andrew Long
Acting Chairman, Regulatory Decisions Committee

**ANNEX TO THE FIRST SUPERVISORY NOTICE ISSUED BY THE FINANCIAL
SERVICES AUTHORITY TO CHRISTOPHER JOHN RICHES ON 26 JUNE 2012**

RELEVANT STATUTORY PROVISIONS

1. The FSA's regulatory objectives established in section 2(2) of the Act include the protection of consumers.
2. Section 20(1) of the Act provides that:

If an authorised person carries on a regulated activity in the United Kingdom, or purports to do so, otherwise than in accordance with permission—

 - (a) given to him by the Authority under Part IV, or
 - (b) resulting from any other provision of this Act,

he is to be taken to have contravened a requirement imposed on him by the Authority under this Act.
3. Section 43 of the Act provides that:
 - (1) A Part IV permission may include such requirements as the Authority considers appropriate.
 - (2) A requirement may, in particular, be imposed—
 - (a) so as to require the person concerned to take specified action; or
 - (b) so as to require him to refrain from taking specified action.
 - (3) A requirement may extend to activities which are not regulated activities.
4. The FSA is authorised by section 45 of the Act to exercise the following powers:
 - to vary an authorised person's permission where it appears to the FSA that such person is failing to satisfy the Threshold Conditions;
 - to vary an authorised person's permission where it is desirable to do so to meet any of its regulatory objectives;
 - to vary such a permission by removing a regulated activity from those for which the permission is given; 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 40 of the Act, including the imposition pursuant to section 43 of the Act of such requirements as the FSA considers appropriate.

5. Section 53(3) of the Act allows such a variation to take effect immediately only if the FSA 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.
6. 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) But the Authority may not publish information under this section if publication of it would, in its opinion, be unfair to the person with respect to whom the action was taken or prejudicial to the interests of consumers.
 - (7) Information is to be published under this section in such manner as the Authority considers appropriate.
7. Paragraph 5 of Schedule 6 to the Act sets out Threshold Condition 5 which provides that:

“The person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including-

 - (a) his connection with any person;
 - (b) the nature of any regulated activity that he carries on or seeks to carry on; and
 - (c) the need to ensure that his affairs are conducted soundly and prudently.”

RELEVANT HANDBOOK PROVISIONS

8. In exercising its power to vary a Part IV permission, the FSA must have regard to guidance published in the FSA Handbook of Rules and Guidance (the “Handbook”). The relevant main considerations in relation to the action specified above are set out below.

Relevant Principles

9. Principle 1 (Integrity) requires a firm to conduct its business with integrity.
10. Principle 11 (Relations with regulators) requires a firm to deal with its regulators in an open and co-operative way, and to disclose to the FSA anything relating to the firm that the FSA would reasonably expect notice of.

Relevant Rule

11. Rule 15.6.1R in the Supervision Manual (“SUP”), which forms part of the Handbook, states:

“A *firm* must take reasonable steps to ensure that all information it gives to the FSA is in accordance with a *rule* in any part of the Handbook (including *Principle 11*) is:

- 1) factually accurate, or in the case of estimates and judgments, fairly and properly based after appropriate enquiries have been made by the *firm*...”

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 2.5 – Threshold Condition 5: Suitability (paragraph 5, Schedule 6 to the Act)

13. COND 2.5.1UK reproduces the relevant statutory provision that the person concerned must satisfy the FSA that he is a fit and proper person having regard to all the circumstances, including amongst other things, the need to ensure that his affairs are conducted soundly and prudently.
14. COND 2.5.2G(1) provides that Threshold Condition 5 requires the firm to satisfy the FSA that it is ‘fit and proper’ to have Part IV permission having regard to all the circumstances, including its connections with other persons, the range and nature of its proposed (or current) regulated activities and the overall need to be satisfied that its affairs are and will be conducted soundly and prudently.
15. The guidance at COND 2.5.4G(2)(a) provides that in determining whether a firm is fit and proper, the FSA will have regard to whether the firm conducts its the business with integrity and in compliance with proper standards.
16. The guidance at COND 2.5.6G(1) provides that the FSA will have regard to whether the firm has been open and co-operative in its dealings with the FSA, and is ready willing and able to comply with the requirements and standards of the regulatory system.
17. The guidance at COND 2.5.6G(4) provides that the FSA will have regard to whether the firm has contravened any of the provisions of the Act.
18. COND 2.5.4G(3) states that the FSA will take into account relevant matters only to the extent that they are significant. In determining whether relevant matters are significant to the firm, the FSA will consider significance in the context of the suitability of the firm, having regards to the regulatory objectives in section 2 of the Act (The FSA’s general duties); a series of matters may be significant when taken together, even if each of them in isolation may not be significant.

OTHER RELEVANT REGULATORY PROVISIONS

19. The FSA's policy in relation to its enforcement powers is set out in the Enforcement Guide (EG), certain provisions of which are summarised below.
20. EG 8.1(1) reflects the provisions of section 45 of the Act that the FSA may use its own-initiative power to vary or cancel the permission of an authorised firm where a firm is failing or is likely to fail to satisfy the Threshold Conditions.

Varying a firm's Part IV permission on the FSA's own-initiative

21. EG 8.1B provides that the FSA will have regard to its regulatory 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.
22. EG 8.3 provides that the FSA will exercise its formal powers under section 45 of the Act, where the FSA considers it is appropriate to ensure a firm meets its regulatory requirements. EG 8.3(1) specifies that the FSA 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.
23. EG 8.5(1)(a) and (b) specify that the FSA will consider exercising its own-initiative power where a firm appears not to be a fit and proper person to carry on a regulated activity.

Use of the own-initiative power in urgent cases

24. EG 8.6 states that the FSA 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 power.
25. EG 8.7 provides the circumstances in which the FSA will consider exercising its own initiative power as a matter of urgency, including 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)).
26. EG 8.8 provides a list 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.
27. EG 8.9 sets out the factors which will determine whether the urgent exercise of the FSA's own-initiative power is an appropriate response to serious concerns, including the extent of any risk of consumer loss or other adverse effect on consumers (EG 8.9(1)).