
SUPERVISORY NOTICE

To: **Ifaeye Limited**

Of: **21-23 Hill Street
Edinburgh
EH2 3JP**

FSA Reference
Number: **499581**

Dated: **24 January 2013**

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 Ifaeye Limited (“Ifaeye”) pursuant to Part IV of the Act (“Ifaeye’s Part IV permission”), by removing all of Ifaeye’s regulated activities with effect from noon on Thursday, 31 January 2013 (“the Effective Date”). Accordingly, Ifaeye’s Part IV permission will no longer include 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, from the Effective Date, Ifaeye's Part IV permission by imposing the following requirements, pursuant to section 43 of the Act, namely that Ifaeye must within 14 days of the Effective Date:
 - (a) notify in writing all clients relevant to the regulated activities carried on by Ifaeye that it is no longer permitted by the FSA to carry on regulated activities; and
 - (b) provide the FSA with a list of the clients to whom a notification has been sent together with an example of the notification.

REASONS FOR ACTION

3. The FSA has concluded, on the facts and matters described below, that Ifaeye 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, Ifaeye can no longer satisfy the FSA that it is fit and proper to conduct regulated activities as Ifaeye has not conducted its business soundly and prudently and in compliance with proper standards, and so is failing to meet Threshold Condition 5 (Suitability). Specifically, Ifaeye has not been open and co-operative in all of its dealings with the FSA, in breach of Principle 11 (Relations with regulators) of the FSA's Principles for Businesses.
4. Ifaeye has also failed to satisfy the FSA that its resources are adequate in relation to the regulated activities it has permission to carry on, and so Ifaeye may also be failing to meet Threshold Condition 4 (Adequate resources). Specifically, Ifaeye has not satisfied the FSA that it has adequate capital resources, in breach of Principle 4 (Financial prudence). As such, Ifaeye presents a significant risk to consumers.

FACTS AND MATTERS RELIED ON

5. On 20 May 2009, the FSA gave permission to Ifaeye to carry on regulated home finance business and designated investment business.
6. On 10 October 2012, the FSA on its own initiative varied Ifaeye's Part IV permission to add requirements that, by 1 December 2012, Ifaeye was required to engage an accountant approved by the FSA, and provide certain financial information to the FSA. Specifically, Ifaeye was required to provide either a report on whether Ifaeye was meeting its regulatory capital requirement at 31 March 2012, or a balance sheet and regulatory capital calculation as at 30 September 2012.
7. Without any reasonable explanation, Ifaeye has failed to comply with those requirements.

FAILINGS

8. The regulatory provisions relevant to this 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:

- Ifaeye, without reasonable explanation, has failed to comply with requirements which were imposed on its Part IV permission, and so is failing to be open and co-operative with the FSA and is failing to comply with Principle 11 (Relations with regulators). Ifaeye has therefore failed to conduct its business in compliance with proper standards and Ifaeye therefore no longer satisfies the FSA that it is ready, willing and organised to comply with the requirements and standards of the regulatory system and so therefore no longer satisfies the FSA that it is a fit and proper person to conduct regulated activities as required by Threshold Condition 5 (Suitability);
- by failing to comply with the requirements which were imposed on its Part IV permission, Ifaeye has also failed to satisfy the FSA that its regulatory capital position at least meets the FSA's minimum requirements, and so Ifaeye may not have resources adequate for the regulated activities it has permission to carry on, and so is failing to comply with Principle 4 (Financial prudence), and Threshold Condition 4 (Adequate resources);
- the risk of loss or other adverse effect on consumers by Ifaeye's failings, which are material breaches of requirements imposed on it by the FSA's rules, causes the FSA to have serious concerns about Ifaeye such that the exercise of the FSA's own-initiative power to vary Ifaeye's Part IV permission is an appropriate and reasonable response to those concerns; and
- it is desirable to exercise the FSA's own-initiative power to vary Ifaeye's Part IV permission to meet its regulatory objectives, and specifically in relation to Ifaeye, the objectives of the protection of consumers and market confidence.

PROCEDURAL MATTERS

Decision Maker

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

The Tribunal

12. Ifaeye has the right to refer the matter to which this 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, Ifaeye has 28 days from the date on which this Supervisory Notice is given to it 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 Ifaeye and filed with a copy of this 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. Ifaeye 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. Ifaeye has the right to make written and oral representations to the FSA (whether or not it refers this matter to the Tribunal). If Ifaeye wishes to make written representations it must do so by 4 March 2013 or such later date as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Emma Wotton, 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 Ifaeye wishes to make oral representations, Ifaeye should inform the FSA of its intention to do so by 8 February 2013. If Ifaeye does not notify the FSA by 8 February 2013, it will not, other than in exceptional circumstances, be able to make oral representations.

Publicity

17. Ifaeye should note that section 391 of the Act requires the FSA when the Supervisory Notice takes effect (and this 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, Ifaeye should contact Alexander Banerjea at the FSA (direct line: 020 7066 7207 / fax: 020 7066 7208).
19. If Ifaeye has any questions regarding the procedures of the Regulatory Decisions Committee, it should contact Emma Wotton (direct line: 020 7066 7684).

Andrew Long

Acting Chairman, Regulatory Decisions Committee

**ANNEX TO THE SUPERVISORY NOTICE ISSUED BY THE FINANCIAL
SERVICES AUTHORITY TO IFAEYE LIMITED ON 24 JANUARY 2013**

RELEVANT STATUTORY PROVISIONS

1. The FSA's regulatory objectives established in section 2(2) of the Act include the protection of consumers and market confidence.
2. 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.”
3. 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.
4. 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.
5. 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.”
6. Paragraph 4 of Schedule 6 to the Act sets out Threshold Condition 4 which provides that:
- “(1) The resources of the person concerned must, in the opinion of the Authority, be adequate in relation to the regulated activities that he seeks to carry on, or carries on.”
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 4 (Financial prudence) requires a firm to maintain adequate financial resources.
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.

Guidance concerning the relevant Threshold Condition

11. Guidance on the Threshold Conditions is set out in the part of the Handbook entitled Threshold Conditions (“COND”).

COND 2.4 – Threshold Condition 4: Adequate Resources (paragraph 4, Schedule 6 to the Act)

12. COND 2.4.1UK reproduces the relevant statutory provision that the resources of the person concerned must, in the opinion of the FSA, be adequate in relation to the regulated activities that he seeks to carry on, or carries on.

13. COND 2.4.2.G(1) provides that Threshold Condition 4 requires the FSA to ensure that a firm has adequate resources in relation to the specific regulated activity or regulated activities which it seeks to carry on, or carries on.
14. COND 2.4.2G(2) provides that the FSA will interpret the term 'adequate' as meaning sufficient in terms of quantity, quality and availability, and 'resources' as including all financial resources.

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

15. 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.
16. 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.
17. 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 business with integrity and in compliance with proper standards.
18. 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.
19. 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.
20. 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 regard 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

21. 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.
22. 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

23. 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.
24. 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.
25. EG 8.5(1)(a) specifies that one circumstance where the FSA will consider using its power to vary a permission is where a firm's resources appear inadequate for the regulated activities it is carrying on. EG 8.5(1)(b)(iii) specifies that another circumstance is where a firm does not appear to be a fit and proper person as it has breached requirements imposed on it by or under the Act (including the Principles or the rules) and the breaches are material in number or individual seriousness.

Use of the own-initiative power in urgent cases

26. 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.
27. The FSA's policy for its use of the own-initiative power in urgent cases is set out at EG 8.7(1) and (2) which specify the circumstances in which the FSA will consider exercising its own-initiative power as a matter of urgency. One such circumstance is where the information available to the FSA indicates serious concerns about the firm or its business that need to be addressed immediately.
28. EG 8.8 provides a list of situations which will give rise to such serious concerns. Specifically, EG 8.8(1) includes circumstances suggesting a risk of loss or other adverse effect for consumers, and EG 8.8(4) includes circumstances suggesting a serious problem within a firm that calls into question the firm's ability to continue to meet the threshold conditions.
29. EG 8.9 sets out the factors the FSA may consider in addition to the full circumstances of each case when it decides whether an urgent variation of Part IV permission is appropriate. In particular, EG 8.9(1) states a factor is the extent of any loss, or risk of loss, or other adverse effect on consumers.