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**FIRST SUPERVISORY NOTICE**

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To: **Sonaïke, Theophilus Folagbade (trading as F T Insurance Services)**  
Of: **139A Albert Road**  
**North Woolwich**  
**London**  
**E16 2JD**

Dated: **19 May 2005**

**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("the FSA") has taken the following action**

**1. ACTION**

For the reasons listed 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 you, Theophilus Folagbade Sonaïke, trading as F T Insurance Services, pursuant to Part IV of the Act ("your Permission") by removing all regulated activities with immediate effect. Accordingly, your Permission no longer includes the following regulated activities:

- (a) advising on investments (excluding pension transfers and pension opt-outs);
- (b) agreeing to carry on a regulated activity;
- (c) arranging (bringing about) deals in investments;
- (d) making arrangements with a view to transactions in investments;
- (e) advising on regulated mortgage contracts;
- (f) arranging (bringing about) regulated mortgage contracts, and
- (g) making arrangements with a view to regulated mortgage contracts.

The FSA has further decided to vary your Permission by including the following requirements, namely that within 14 days you must:

- (i) advise in writing all clients for your regulated activities that you are no longer permitted by the FSA to carry on regulated activities;
- (ii) provide the FSA with a copy of the written advice sent to all clients for your regulated activities pursuant to (i) above, together with a list of all clients to whom such advice has been sent.

## 2. REASONS FOR ACTION

### Summary

The FSA has concluded, on the basis of the facts and matters described below, that you are failing to satisfy the threshold conditions set out in Schedule 6 to the Act (“the threshold conditions”) in that the FSA is not satisfied that you are a fit and proper person to be authorised to conduct regulated activities having regard to all the circumstances. That is because, in the opinion of the FSA, you have failed to act with integrity.

The FSA also considers, on the basis of those facts and matters, that it is necessary, in order to protect the interests of consumers, for the action specified above to take immediate effect.

### Relevant Statutory Provisions

The FSA’s regulatory objectives, established in section 2(2) of the Act, include the protection of consumers.

By section 45 of the Act, the FSA is authorised:

- 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 such permission by removing a regulated activity from those for which the permission is given;
- to vary an authorised person's permission, where it is desirable to exercise that power in order to protect the interests of consumers;
- 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.

Section 53(3) of the Act allows such a variation to take effect immediately if the FSA reasonably considers that it is necessary for the variation to take effect immediately.

### Relevant Guidance

In exercising its power to vary a Part IV permission, the FSA must have regard to guidance published in the FSA Handbook. The main considerations in relation to the action specified above are set out below.

#### **ENF 3.5 - The FSA’s policy for exercising its own-initiative power to vary a Part IV permission**

Paragraph 3.5.2 requires the FSA to have regard to its regulatory objectives and the range of regulatory tools that are available to it.

Paragraph 3.5.3 provides that the FSA will take formal action affecting the conduct of a firm's commercial business only if that business is being conducted in such a way that the FSA judges it necessary to act in order to address the consequences of non-compliance with the Act and the Principles for Businesses.

Paragraph 3.5.8 provides that the circumstances in which the FSA will consider exercising its power include where the FSA has serious concerns that the authorised person has breached requirements imposed on it by or under the Act and the breaches are material in number or individual seriousness.

Paragraph 3.5.13 includes among the factors which will determine whether the urgent exercise of the FSA's own-initiative power is an appropriate response to serious concerns, the extent of any loss or risk of loss or other adverse effect on consumers.

### **Guidance concerning the relevant threshold condition**

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

Paragraph 2.5.1 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, among other things, the need to ensure that his affairs are conducted soundly and prudently.

Paragraph 2.5.4(2)(a) requires the FSA, when forming its opinion as to whether an authorised person is conducting its affairs soundly and prudently, to have regard to relevant matters, including whether it conducts its business with integrity and in compliance with proper standards.

Paragraph 2.5.4(3) requires the FSA only to take into account relevant matters which are significant in the context of the suitability of the firm.

Paragraph 2.5.6 permits the FSA, when forming its opinion as to whether an authorised person is conducting its business with integrity and in compliance with proper standards, to have regard to relevant matters, including whether:

- the firm has been convicted of any unspent offence involving, among other things, fraud, theft, false accounting or other dishonesty; where relevant, any spent convictions excepted for this purpose under the Rehabilitation of Offenders Act 1974, will be taken into consideration;
- the firm has contravened, among other things, the requirements of the regulatory system, which includes the threshold conditions.

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

F T Insurance Services is a sole trader independent financial adviser, of which you are the only principal and approved person.

On 26 January 2004 you were convicted of five counts of furnishing false information contrary to section 17(1)(b) of the Theft Act 1968, for each of which you were sentenced to a community punishment order of 150 hours, to run concurrently. You were also ordered to pay compensation of £11,871 to Manchester City Council.

## **Conclusions**

The facts and matters described above lead the FSA, having regard to its regulatory objectives which include the protection of consumers, to the following conclusions:

- you have been convicted of criminal offences, involving furnishing false information;
- those convictions go directly to impugn your integrity and demonstrate that you are not a fit and proper person to be authorised to conduct regulated activities;
- these matters are material in relation to your permitted regulated activities and you therefore fail to satisfy Threshold Condition 5: Suitability;
- the convictions cause the FSA to have very serious concerns about you such that the exercise of the FSA's own-initiative power to vary your Permission with immediate effect is an appropriate response to those concerns.

### **3. DECISION MAKER**

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

### **4. IMPORTANT**

This Supervisory Notice is given to you in accordance with section 53(4) of the Act. The following statutory rights are important.

#### **The Tribunal**

You may refer this matter to the Financial Services and Markets Tribunal ("the Tribunal"). Under section 133 of the Act, you have 28 days from the date you were sent this Supervisory Notice to refer the matter to the Tribunal or such other period as specified in the Tribunal Rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this Notice. The Tribunal's address is: 15-19 Bedford Avenue, London WC1B 3AS (telephone 020 7612 9700). The detailed procedures for making a reference to the Tribunal are contained in section 133 of the Act and the Tribunal Rules.

You should note that the Tribunal Rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the notice to the FSA. Any copy notice should be sent to Andrew Wilson at the FSA, 9<sup>th</sup> Floor, 25 The North Colonnade, Canary Wharf, London E14 5HS.

#### **Representations**

You have the right to make written and oral representations to the FSA (whether or not you refer this matter to the Tribunal). If you wish to make written representations you must do so by 21 June 2005 or such later date as may be permitted by the FSA. Written representations should be made to the Regulatory Decisions Committee and sent to Mrs Noonan, Regulatory Decisions Committee Secretariat. The Regulatory

Decisions Committee Secretariat's address is: 25 The North Colonnade, Canary Wharf, London E14 5HS. If you wish to make oral representations, you should inform Mrs Noonan not less than 5 business days before 21 June 2005.

**Confidentiality and publicity**

You should note that this Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining advice on its contents). You should also note that section 391 of the Act requires the FSA when the Supervisory Notice takes effect, to publish such information about the matter as it considers appropriate.

**FSA contacts**

If you have any questions regarding the procedures of the Regulatory Decisions Committee, you should contact either Mrs Noonan (direct line: 020 7066 3196/fax: 020 7066 3197), or Brian Whitbread, Head of the Regulatory Decisions Committee Secretariat (direct line: 020 7066 3202/fax: 020 7066 3203).

For more information concerning this matter generally, you should contact Andrew Wilson at the FSA (direct line: 020 7066 5170/fax: 020 7066 9720).

Tim Herrington  
Chairman, Regulatory Decisions Committee