

Warning notice statement 14/11

The Financial Conduct Authority (the FCA) gave a Sale and Rent Back ("SRB") firm a warning notice on 30 April 2014 proposing to take action in respect of the conduct summarised in this statement.

IMPORTANT: a warning notice is not the final decision of the FCA. The SRB firm has the right to make representations to the Regulatory Decisions Committee (RDC) which, in the light of those representations, will decide on the appropriate action and whether to issue a decision notice. The RDC is a Committee of the FCA board which decides whether the FCA should give certain statutory notices described as within its scope by the FCA's Handbook.

If a decision notice is issued, the SRB firm has the right to refer the matter to the Upper Tribunal which would reach an independent decision on the appropriate action for the FCA to take, if any.

If either the RDC or the Upper Tribunal decides that no further action should be taken, the FCA will publish a notice of discontinuance provided it has the SRB firm's consent.

The following is a summary of the reasons why the FCA gave the SRB firm a warning notice:

- One of the FCA's operational objectives is securing an appropriate degree of protection for consumers.
- The FCA considers that during the period from 14 July 2010 to 17 May 2011 (the Relevant Period) the SRB firm breached Principle 6 (Customers' Interests) of the FCA's Principles for Businesses by failing to pay due regard to the interests of its customers and treat them fairly in respect of the affordability and appropriateness of SRB transactions entered into by its customers.
- In particular, the FCA considers that, during the Relevant Period, the SRB firm failed to:
 - ensure appropriate customer information was gathered prior to permitting its customers to enter into an SRB transaction;
 - assess reasonably the appropriateness of some of the SRB transactions it permitted its customers to enter into. Specifically, it failed to consider and adequately explore other options that may have been more appropriate to the customers' needs and circumstances;
 - assess reasonably the affordability of some of the SRB transactions it permitted its customers to enter into, in accordance with the requirements of the FCA's Mortgage and Home Finance: Conduct of Business sourcebook;
 - ensure that valuations of the properties were carried out independently by a surveyor who owed a duty of care to the customer; and

- ensure that its record keeping was adequate to demonstrate compliance with regulatory requirements.
- The FCA considers that, as a result of the above failings the SRB firm's customers were not treated fairly and may have entered into transactions that were unaffordable and/or inappropriate.