



Financial Conduct Authority

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FINAL NOTICE

Wingfield Financial Heritage Limited
29 Journeaux Court
Great Union Road
St Helier
Jersey
JE2 3XQ

9 September 2016

ACTION

1. By an application dated 31 March 2015 Wingfield Financial Heritage Limited ("Wingfield") applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of entering into a bill of sale agreement as lender, exercising or having the right to exercise the lenders rights and duties under a bill of sale agreement, entering into a regulated credit agreement as lender (excluding high-cost short-term credit, bill of sale agreement, and home collected credit agreement) and exercising or having the right to exercise the lender's rights and duties under a regulated credit agreement as lender (excluding high-cost short-term credit, bill of sale agreement, and home collected credit agreement).
2. The Application is incomplete.
3. For the reasons listed below, the Authority has refused the Application.

SUMMARY OF REASONS

4. By its Warning Notice the Authority gave notice that it proposed to refuse the Application and that Wingfield was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from Wingfield within the time allowed by the Warning Notice, the default procedures in paragraph 2.3.2 of the Authority's Decision Procedure and Penalties Manual apply, permitting the Authority to treat the matters referred to in its Warning Notice as undisputed and, accordingly, to give a Decision Notice.
6. For the reasons set out herein the Authority cannot ensure that Wingfield will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
7. Wingfield has failed to respond to four separate requests for the provision of information considered, by the Authority, to be necessary to allow the Application to be determined. These requests were made over a 23 week period; the latter two requests included a statement to the effect that the recipient must contact the Authority or face a Warning Notice.
8. The Authority has therefore determined the Application based upon the information received to date, in circumstances where its requests for information have not been met. Having reviewed that information, the Authority could not be sure that the applicant satisfied, and will continue to satisfy, the threshold conditions.
9. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and cooperative way. The failure to provide the requested information raises concerns that Wingfield would not do so if the Application were to be granted.
10. The failure to provide the information raises concerns as to whether Wingfield:
 - i) can be effectively supervised by the Authority as required by threshold condition 2C;
 - ii) has appropriate human resources, given the applicant's failure to provide the Authority with the requested information as required by threshold condition 2D; and
 - iii) will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E

DEFINITIONS

11. The definitions below are used in this Final Notice.

"the Act" means the Financial Services and Markets Act 2000

"the Application" means the application referred to in paragraph 1 above.

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority

"CAD" means Credit Authorisations Department

"the RTC" means the Authority's Regulatory Transactions Committee

"the Tribunal" means the Upper Tribunal (Tax & Chancery Chamber)

"the Warning Notice" means the warning notice dated 12 July 2016 given to the applicant by the Authority.

FACTS AND MATTERS

12. The Application was received by the Authority on 31 March 2015.

13. Further information was requested from Wingfield under section 55U(5) of the Act. Details of all the communications between the Authority and Wingfield are set out below:

(1) On 10 August 2015, Wingfield was asked to provide the following information in support of the Application by 21 August 2015:

- i) Regulatory business plan;
- ii) Compliance monitoring documentation;
- iii) Organisational structure chart;
- iv) Opening balance sheet;
- v) Forecast closing balance sheet;
- vi) Monthly cash flow forecast;
- vii) Monthly profit and loss forecast; and
- viii) Pawn broking pre-contract [agreement];
- ix) Supporting documents.

(2) On 21 August 2015, an email was sent to the Authority by a representative of Wingfield stating that the only person with "*care and conduct*" of the Application was absent from work due to medical reasons and requesting that the Application be stayed for three months.

(3) On 24 August 2015, the Authority replied to Wingfield's representative by email and asked whether Wingfield had a locum in place. In the event that it did not, the Authority asked whether there was any other person in the firm who was able to respond to the Authority's request for information. The Authority did not receive a response to this email.

(4) On 9 September 2015, the Authority sent an email to Wingfield, requesting that the firm respond urgently in order to discuss its incomplete application. The Authority requested that Wingfield reply by 14 September 2015.

- (5) On 14 September 2015, an email was sent to the Authority by Wingfield's representative stating that the person with care and conduct of the Application remained unwell. The representative indicated that this person could deal with the Authority's requests through his wife, and queried which documents were missing from the Application.
- (6) On 17 September 2015, the Authority responded to Wingfield's representative (with a copy to Wingfield directly), and set out the documentation listed in paragraph (a) above.
- (7) In this email, the Authority noted that Wingfield had failed to nominate an individual for the CF1 function, and that an individual anticipating to become an approved person should respond to the Authority's requests for information in support of the Application. The Authority stated that, given the lack of a substantive response to date, the Authority intends to commence the non-responder procedure. The Authority further noted that, should the Application be refused, Wingfield's interim permission would lapse. The Authority did not receive a response to this email.
- (8) After 8 weeks, the Authority had still received no response to its request for information.
- (9) On 1 October 2015, the Authority wrote to Wingfield informing it that a failure to provide the outstanding information would result in the Application being determined based upon the information received to date and that this might result in a recommendation to the RTC that it issue Wingfield with a Warning Notice proposing to refuse the Application. No response was received to this letter by the stated deadline of 12 October 2015 (i.e. within eight working days).
- (10) On 6 October 2015, an email was sent to the Authority by a representative of Wingfield stating that the person with care and conduct of the Application had not returned to work and that the Application was being redrafted by a compliance consultant. The Authority does not consider this to be a substantive response.
- (11) On 19 October 2015, the Authority sent a letter to Wingfield by recorded delivery, noting the lack of a substantive response to its previous email of 1 October 2015 and reiterating that a failure to provide the outstanding information would result in the application being determined based upon the information received to date. This letter was returned to sender marked "addressee unknown", but a copy of it was sent to the email addresses of Wingfield and its representative on 19 October 2015. The letter again noted that a failure to reply might result in a recommendation to the RTC that it issue Wingfield with a Warning Notice proposing to refuse the Application. No response was received to this email or, self-evidently, the hard copy letter by the stated deadline of 2 November 2015 (i.e. within 11 days).
- (12) On 16 November 2015, the Authority sent a letter to Wingfield by recorded delivery, noting the lack of a response to its previous email of 1 October 2015 and letter of 19 October 2015, and reiterating that a failure to provide the outstanding information would result in the Application being determined based upon the information received to date. The letter again noted that this might result in a recommendation to the RTC that it issue Wingfield with a Warning Notice proposing to refuse the Application. The letter was sent by the Royal Mail's Special Delivery

Guaranteed service and signed-for on delivery by "Harrison" on 20 November 2015. No response was received to this letter by the stated deadline of 27 November 2015 (i.e. within 10 days).

(13) On 16 December 2015, CAD re-sent the email which had previously been sent to Wingfield on 19th October 2015. No response was received to that email.

(14) On 14 January 2016, the Authority sent a letter to Wingfield, noting the lack of a response to its previous email of 1 October 2015 and letters of 19 October 2015 and 16 November 2015, reiterating that a failure to provide the outstanding information would result in the Application being determined based upon the information received to date. The letter again noted that a failure to reply might result in a recommendation to the RTC that it issue Wingfield with a Warning Notice proposing to refuse the Application. The letter was sent by the Royal Mail's Special Delivery Guaranteed service and signed-for on delivery on 11 February 2016. No response was received to the letter by the stated deadline of 28 January 2016 (i.e. within 11 days).

(15) On 11 February 2016 CAD sent a copy of the letter of 14 January to Wingfield by email. No response was received to that email.

IMPACT ON THRESHOLD CONDITIONS

14. The regulatory provisions relevant to this Final Notice are referred to in Annex A.

15. Wingfield has failed to respond to four separate requests for the provision of information considered, by the Authority, to be necessary to allow the Application to be determined. These requests were made over a 23 week period; each request included a statement to the effect that the recipient must contact the Authority or face a Warning Notice.

16. The Authority must therefore determine the Application based upon the information received to date, in circumstances where its requests for information have not been met. Having reviewed that information, the Authority cannot ensure that the applicant satisfies, and will continue to satisfy, the threshold conditions.

17. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and cooperative way. The failure to provide the requested information raises concerns that Wingfield would do so if the Application were to be granted.

18. On the basis of the facts and matters described above, in particular the failure to provide the information sought, the Authority has concluded that it cannot ensure that Wingfield will satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which Wingfield would have permission if the application was granted.

IMPORTANT NOTICES

19. This Final Notice is given under section 390 (1) of the Act.

Publication

20. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Notice relates. Under those provisions, the Authority must publish such information about the matter to which this Notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
21. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

22. For more information concerning this matter generally, contact Kate Pitt, Manager, Credit Authorisations at the Authority (direct line: 020 7066 0714 / email: kate.pitt@fca.org.uk).

Patricia Knox
on behalf of the Regulatory Transactions Committee

ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS FINAL NOTICE

Relevant Statutory Provisions

1. Section 55A(1) of the Act provides for an application for permission to carry on one or more regulated activities to be made to the appropriate regulator. Section 55A(2) defines the “appropriate regulator” for different applications.
2. Section 55B(3) of the Act provides that, in giving or varying permission, imposing or varying a requirement, or giving consent, under any provision of Part 4A of the Act, each regulator must ensure that the person concerned will satisfy, and continue to satisfy, in relation to all of the regulated activities for which the person has or will have permission, the threshold conditions for which that regulator is responsible.
3. The threshold conditions are set out in schedule 6 of the Act. In brief, the threshold conditions relate to:
 - (1) Threshold condition 2B: Location of offices
 - (2) Threshold condition 2C: Effective supervision
 - (3) Threshold condition 2D: Appropriate resources
 - (4) Threshold condition 2E: Suitability
 - (5) Threshold condition 2F: Business model

Relevant provisions of the Authority’s Handbook

4. In exercising its powers in relation to the granting of a Part 4A permission, the Authority must have regard to guidance published in the Authority Handbook, including the part titled Threshold Conditions (“COND”). The main considerations in relation to the action specified are set out below.

Threshold condition 2C: Effective Supervision

5. COND 2.3.3G states that, when the FCA is assessing threshold condition 2C, factors which the FCA will take into consideration include, among other things, whether:
 - (1) it is likely that the Authority will receive adequate information from the firm to determine whether it is complying with the requirements and standards under the regulatory system for which the Authority is responsible and to identify and assess the impact on its statutory objectives; this will include consideration of whether the firm is ready, willing and organised to comply with Principle 11 (Relations with regulators and the rules in SUP on the provision of information to the FCA).

Threshold condition 2D: Adequate Resources

6. COND 1.3.2G(2) states that, in relation to threshold conditions 2D to 2F, the Authority will consider whether a firm is ready, willing and organised to comply on a continuing basis with the requirements and standards under the regulatory system which will apply to the firm if it is granted Part 4A permission.

7. COND 2.4.2G(2) states that the FCA will interpret the term 'appropriate' as meaning sufficient in terms of quantity, quality and availability, and 'resources' as including all financial resources (though only in the case of firms not carrying on, or seeking to carry on, a PRA-regulated activity), non-financial resources and means of managing its resources; for example, capital, provisions against liabilities, holdings of or access to cash and other liquid assets, human resources and effective means by which to manage risks.
8. COND 2.4.4G(3) states that high level systems and control requirements are in SYSC. The FCA will consider whether the firm is ready, willing and organised to comply with these and other applicable systems and controls requirements when assessing if it has appropriate non-financial resources for the purpose of the threshold conditions set out in threshold condition 2D.

Threshold condition 2E: Suitability

9. COND 2.5.2G(2) states that the FCA will also take into consideration anything that could influence a firm's continuing ability to satisfy the threshold conditions set out in paragraphs 2E and 3D of Schedule 6 to the Act. Examples include the firm's position within a UK or international group, information provided by overseas regulators about the firm, and the firm's plans to seek to vary its Part 4A permission to carry on additional regulated activities once it has been granted that permission.
10. COND 2.5.4G(2)(c)G states that examples of the kind of general considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, threshold condition 2E include, but are not limited to, whether the firm can demonstrate that it conducts, or will conduct, its business with integrity and in compliance with proper standards.
11. COND 2.5.6G provides that examples of the kind of particular considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, this threshold condition include, but are not limited to, whether:
 - (1) the firm has been open and co-operative in all its dealings with the Authority and any other regulatory body (see Principle 11 (Relations with regulators)) and is ready, willing and organised to comply with the requirements and standards under the regulatory system (such as the detailed requirements of SYSC and, in relation to a firm not carrying on, or seeking to carry on, a PRA-regulated activity only, the Prudential Standards part of the Authority's Handbook) in addition to other legal, regulatory and professional obligations; the relevant requirements and standards will depend on the circumstances of each case, including the regulated activities which the firm has permission, or is seeking permission, to carry on.

Threshold condition 2F: Business Model

12. COND 2.7.7G states that, in assessing whether the threshold conditions set out in paragraphs 2F and 3E of Schedule 6 to the Act are satisfied, the FCA may consider all matters that might affect the design and execution of a firm's business model, taking into account the nature, scale and complexity of a firm's business.
13. COND 2.7.8G states that, in deciding how they will satisfy and continue to satisfy the threshold conditions set out in paragraphs 2F and 3E of Schedule 6 to the Act, firms should consider matters including (but not limited to) the following:

- (1) the assumptions underlying the firm's business model and justification for it;
- (2) the rationale for the business the firm proposes to do or continues to do, its competitive advantage, viability and the longer-term profitability of the business;
- (3) the needs of and risks to consumers;
- (4) the expectations of stakeholders, for example, shareholders and regulators;
- (5) the products and services being offered and product strategy;
- (6) the governance and controls of the firm and of any member of its group (if appropriate);
- (7) the growth strategy and any risks arising from it;
- (8) any diversification strategies; and
- (9) the impact of the external macroeconomic and business environment.