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## FINAL NOTICE

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**Auto Leasing UK Limited  
Badge Brow Service Station  
Union Road  
Oswaldtwistle  
Accrington, Lancs  
BB5 3DA**

20 October 2015

### **ACTION**

1. By way of an application dated 22 August 2014 (“the Application”) Auto Leasing UK Limited (“Auto Leasing”) applied under section 55A of the Financial Services and Markets Act 2000 (“the Act”) for Part 4A permission to carry on the regulated activities of limited permission credit broking, consumer hire and broking vehicle consumer hire agreements.
2. The Application is incomplete.
3. For the reasons listed below, the Authority has refused the Application.

### **SUMMARY OF REASONS**

4. For the reasons set out herein, the Authority cannot ensure that Auto Leasing will satisfy, and continue to satisfy, the threshold conditions set out in the Schedule 6 to the Act. Auto Leasing has failed to provide the information required by the Authority. In particular, the Authority made repeated requests for information to Auto Leasing and Auto Leasing has failed to respond.

5. By its Warning Notice dated 16 July 2015 (“the Warning Notice”) the Authority gave notice that it proposed to refuse the Application and that Auto Leasing was entitled to make representations to the Authority about that proposed action.
6. As no representations have been received by the Authority from Auto Leasing 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.
7. By its Decision notice dated 21 August 2015 (“the Decision Notice”), the Authority gave Auto Leasing notice that it had decided to take the action described above.
8. Auto Leasing had 28 days from the date the Decision notice was given to refer the matter to the Upper Tribunal (formerly known as the Financial Services and Markets Tribunal). No referral was made to the Upper Tribunal within this period of time or to date.
9. Under section 390 (1) of the Act, the Authority, having decided to refuse the Application and there having been no reference of that decision to the Tribunal, must give Auto Leasing Final Notice of its refusal.
10. Auto Leasing has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that Auto Leasing will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.

## **DEFINITIONS**

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

“the Act” means the Financial Services and Markets Act 2000

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

## **FACTS AND MATTERS**

12. The Application was received on 22 August 2014.
13. Further information was requested from *Auto Leasing* under section 55U(5) of the Act. Details of all the communications between the Authority and Auto Leasing are set out below:
  - i. On 10 December 2014 an email was sent by the Authority to Auto Leasing requesting the firm to submit an individual controller form for an individual previously confirmed by Auto Leasing as being a 50% shareholder in the firm, and enquiring as to whether updates to Auto Leasing’s website, to bring it into compliance with the new credit broking rules coming into force from 2 January 2015, had been made. The firm was requested to provide this information by 30 December 2014.
  - ii. On 2 January 2015, having received no response to the email of 10 December 2014, the Authority made a telephone call to Auto Leasing.

The Authority was advised that the principal was not available to speak to the Authority and would be unavailable for the rest of the week.

- iii. On 2 January 2015, the Authority sent an email to Auto Leasing. This email restated the information request initially sent to Auto Leasing on 10 December 2014, and explained that the application was incomplete and that the Authority would issue a Warning Notice to Auto Leasing if it did not respond by 9 January 2015.
- iv. On 12 January 2015, the Authority made a telephone call to Auto Leasing. The call was not answered and a voice message was left advising that a further email and letter would be sent in respect of the outstanding information, and that Auto Leasing should either provide the information requested or withdraw the Application if it was not ready to provide the information to progress the Application.
- v. Also on 12 January 2015, a letter was sent to Auto Leasing. A copy of the letter was also sent to the firm by email on the same day. The letter restated the information request initially sent to the applicant on 10 December 2014, and explained that the Application was incomplete and that the FCA would issue a Warning Notice if the firm did not respond by 19 January 2015.
- vi. On 21 January 2015, the Authority made a telephone call to Auto Leasing. This call was answered but Auto Leasing's principal was not available and there was no opportunity to leave a message.
- vii. Also on 21 January 2015, the Authority sent a letter by post and email to Auto Leasing. The letter restated the information request initially sent to Auto Leasing on 10 December 2014, and explained that the application was incomplete and that the FCA would issue a Warning Notice if the firm did not respond.
- viii. The Authority received no response to the request for information sent to Auto Leasing on 10 December 2014. The Authority has therefore not been able to assess information which the Authority considers necessary to enable it to determine the Application, including information which the Authority requires to assess the fitness and propriety of the individual for which an individual controller form was requested.
- ix. On 16 July 2015, the Authority gave Auto Leasing a Warning Notice by which it proposed to refuse the Application and set out its reasons. Auto Leasing neither made representations on that Notice nor did it withdraw the Application within the requisite period.

14. The Authority received no response to any of the communications set out above.

#### **IMPACT ON THRESHOLD CONDITIONS**

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

16. By virtue of Auto Leasing's failure to provide the requested information and by its failure to respond to the Authority's communications, the Authority cannot ensure that Auto Leasing will satisfy and continue to satisfy the following threshold conditions:

- i. Threshold Condition 2C (Effective Supervision): Auto Leasing's failures call into question whether the Authority would be able to obtain (on an ongoing basis) sufficient information about Auto Leasing and its activities such that the Authority would be able to effectively supervise Auto Leasing; and
  - ii. Threshold Condition 2E (Suitability): By failing to respond adequately or at all to the Authority's requests and correspondence, Auto Leasing has failed to demonstrate it is ready, willing and organised to comply with the standards and requirements of the regulatory system (including the need to be open and co-operative with the Authority) and has failed to demonstrate that it is a fit and proper person. It has also not been possible to determine whether Auto Leasing's controller is a fit and proper person.
17. 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 Auto Leasing will satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which Auto Leasing would have permission if the application was granted.

## **IMPORTANT NOTICES**

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

### **Publication**

19. 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.
20. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority contacts**

21. For more information concerning this matter generally, contact Sunil Thakar, Manager, Credit Authorisations Divisions at the FCA (direct line: 020 7066 5996 / email: [sunil.thakar@fca.org.uk](mailto:sunil.thakar@fca.org.uk)).

**Graeme McLean**  
**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.
5. 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.

#### ***Threshold condition 2D: Effective Supervision***

6. COND 2.3.1A(1) states that the firm must be capable of being effectively supervised by the FCA having regard to all the circumstances.
7. COND 2.3.3(1)G states that, when assessing whether a firm can be effectively supervised, the FCA will take into consideration, among others, whether it is likely the FCA will receive adequate information from the firm, and those persons with whom the firm has close links, to enable it to determine whether the firm is complying with the requirements and standards under the regulatory system for which the FCA 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 2E: Suitability***

8. COND 2.5.1A(1)(d) states that a firm must be a fit and proper person having regard to all the circumstances, including whether the firm has complied and is complying with requirement imposed by the FCA in the exercise of its functions, or requests made by the FCA, relating to the provision of information to the FCA and, whether the Firm has so complied or is so complying, the manner of that compliance.
9. COND 2.5.6(1)G provides that examples of the kind of particular considerations to which the FCA may have regard when assessing whether a firm will satisfy and continue to satisfy the Threshold Conditions include, but are not limited to whether the firm has been open and co-operative in all its dealings with the FCA (see Principle 11 (Relations with regulators)) and is ready, willing and organised to comply with the requirements and standards under the regulatory system in addition to other legal, regulatory and professional obligations.

***Principles for Business***

Under PRIN 2.1.1R, Principle 11 states that a firm must deal with the Authority in an open and co-operative way, and must disclose to the Authority appropriately anything relating to the firm of which the Authority would reasonably expect notice.