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## FINAL NOTICE

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Craig Anthony Welborn  
t/a Ginger Pig Finance  
Camblesforth  
Selby

19 November 2015

### **ACTION**

1. By way of an application dated 31 December 2014 ("**the Application**") Craig Anthony Welborn t/a Ginger Pig Finance ("**Craig Welborn**") applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of Credit Broking, Debt Adjusting, Debt Administration and Debt Counselling.
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 dated 1 September 2015 ("**the Warning Notice**") the Authority gave notice that it proposed to refuse the Application and that Craig Welborn was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from Craig Welborn 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. By its Decision notice dated 16 October 2015 ("**the Decision Notice**"), the Authority gave Craig Welborn notice that it had decided to take the action described above.
7. Craig Welborn 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.
8. 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 Craig Welborn Final Notice of its refusal.
9. The Authority decided to refuse the Application and to give this Final Notice as Craig Welborn has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that Craig Welborn will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.

## **DEFINITIONS**

10. 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**

11. The Application was received by the Authority on 31 December 2014.
12. Further information was requested from Craig Welborn under section 55U(5) of the Act.
13. Details of all the communications between the Authority and Craig Welborn are set out below:
  - a) On 31 December 2014, the Part 4A application of Craig Welborn was received by the Authority.
  - b) On 15 April 2015, the Authority sent an email to Craig Welborn acknowledging receipt of the Application. The email explained that more information was required for the Authority to consider the Application as the original application contained no supporting documents. A deadline of 22 April 2015 was set for Craig Welborn to respond. Craig Welborn was requested to provide the following documents ("**the Documents**"):
    - i. Consumer Credit Supplement: Business Plan;
    - ii. Compliance Monitoring Programme Document;

- iii. Support Documents Form: Supporting Document;
  - iv. Consumer Credit Supplement: Opening balance sheet;
  - v. Consumer Credit Supplement: Forecast closing balance sheet;
  - vi. Consumer Credit Supplement: Monthly cash flow forecast;
  - vii. Consumer Credit Supplement: Monthly profit and loss forecast; and
  - viii. Consumer Credit Supplement: Latest end of year accounts.
- c) On 23 April 2015 the Authority emailed Craig Welborn requesting he provide the Documents to the Authority by 30 April 2015. The Authority reminded Craig Welborn that he was required under Principle 11 of the Authority's Principles for Businesses to be open and co-operative with the Authority.
- d) On 23 April 2015 the Authority attempted to speak to Craig Welborn using the telephone number provided in the Application. The Authority was unable to speak to Craig Welborn as the telephone line was disconnected.
- e) On 5 May 2015 the Authority sent an email to Craig Welborn. The Authority gave a deadline of 12 May 2015 for Craig Welborn to provide the Documents. The Authority also made clear that, if the Documents remained outstanding, it would recommend that a Warning Notice outlining the reasons behind its proposal to refuse the Application be issued to Craig Welborn.
- f) On 14 May 2015 the Authority sent an email and a letter by Special Delivery to Craig Welborn. The Authority gave a deadline of 21 May 2015 for Craig Welborn to provide the Documents. The email and letter reiterated the consequences of failing to provide the information requested which was detailed in the email dated 15 April 2015.
- g) On 28 May 2015 the Authority attempted to speak to Craig Welborn using the telephone number provided in the Application. The Authority was unable to speak to Craig Welborn as the telephone line remained disconnected.
- h) On 3 June 2015, the letter sent on 14 May 2015 was returned to the Authority by post as the letter was 'not called for'.
- i) On 5 June 2015, the Authority sent a letter by Special Delivery and email to Craig Welborn. The Authority gave a deadline of 19 June 2015 for Craig Welborn to provide the Documents. As well as highlighting the potential of a Warning Notice being issued again, this correspondence also advised Craig Welborn how to withdraw the Application should he wish to do so.
- j) On 6 June 2015, the letter sent on 5 June 2015 was signed for at the delivery address.
- k) On 28 July 2015, the Authority attempted to speak to Craig Welborn using the landline telephone number provided in the Application. The Authority was advised that this telephone number was no longer registered to Craig Welborn.

- l) On 28 July 2015, the Authority spoke to Craig Welborn using the mobile telephone number provided in the Application. Craig Welborn replied that he had not received any previous contact from the Authority but wanted to continue with the Application. The Authority sent an email to Craig Welborn asking him to provide the Documents previously requested in the email dated 15 April 2015. A deadline of 4 August 2015 was given for Craig Welborn to provide the Documents.
  - m) On 29 July 2015, the Authority spoke to Craig Welborn using the mobile telephone number provided in the Application. Craig Welborn confirmed that he had received the email sent by the Authority on 28 July 2015 and would respond by the deadline of 4 August 2015.
  - n) On 5 August 2015, the Authority attempted to speak to Craig Welborn using the mobile telephone number provided in the Application. The Authority was unable to speak to Craig Welborn, but a message was left asking Craig Welborn to contact the Authority promptly.
14. No response has been received by the Authority, indicating that any of the emails could not be delivered. The letter dated 14 May 2015 was 'not called for' and has subsequently been returned to the Authority.
  15. During the above period the Authority has not received any substantive response to any of the communications set out above. The Authority made contact with Craig Welborn in the above period twice; a telephone call on 28 July 2015 and a telephone call on 29 July 2015.
  16. However, the information provided by Craig Welborn in the Application and in these communications has been insufficient to enable the Authority to determine the Application as Craig Welborn did not provide the Documents requested by the Authority.
  17. On 1 September 2015, the Authority gave Craig Welborn a Warning Notice by which it proposed to refuse the Application and set out its reasons.
  18. Craig Welborn contacted the Authority on 19 September 2015 and left a telephone message requesting the Authority to return his call. On 21 September 2015 the Authority attempted to speak to Craig Welborn using the mobile telephone number provided in the Application. The Authority was unable to speak to Craig Welborn, but a message was left asking Craig Welborn to contact the Authority promptly. Craig Welborn did not make further contact.
  19. On 16 October 2015, the Authority gave Craig Welborn a Decision Notice by which it proposed to refuse the application and set out its reasons.
  20. Craig Welborn emailed the Authority on 5 November 2015 to advise that the firm no longer required FCA authorisation. The Authority replied to Craig Welborn's email explaining that, because a Decision Notice had already been issued, the firm was unable to withdraw the Application. However, the Authority explained that Craig Welborn could make representations to the Upper Tribunal. Craig Welborn has not made a reference to the Upper Tribunal by the deadline specified in the Decision Notice or responded to the Authority's email.

## **IMPACT ON THRESHOLD CONDITIONS**

21. The regulatory provisions relevant to this Decision Notice are referred to in Annex A.

22. By virtue of Craig Welborn's failure to provide the requested information and from 31 December 2014 to substantively reply to the Authority's correspondence, the Authority cannot ensure that Craig Welborn will satisfy and continue to satisfy the following threshold conditions:

### 2C (Effective Supervision)

- i. Craig Welborn's failure to provide the Authority with the requested information calls into question whether the Authority would be able to obtain (on an ongoing basis) sufficient information about Craig Welborn's activities such that the Authority would be able to effectively supervise the firm.

### 2D (Appropriate Resources)

- ii. In failing to respond to the Authority's requests and correspondence in the manner set out above, Craig Welborn has been unable to satisfy the Authority that he has the appropriate human resources.

### 2E (Suitability)

- iii. The failure by Craig Welborn to supply the information requested means it is not being open and co-operative with the Authority or demonstrating that he is ready, willing and organised to comply in its dealings with the Authority.

23. In the absence of the requested information, it has not been possible for the Authority to determine whether Craig Welborn has the appropriate non-financial resources and whether he is a fit and proper person.

24. On the basis of the facts and matters described above, the Authority has concluded that Craig Welborn will not satisfy, and continue to satisfy, the threshold conditions in relation to the regulated activities for which Craig Welborn would have permission if the Application was granted.

## **IMPORTANT NOTICES**

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

### **Publication**

26. 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.

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

**Authority contacts**

28. For more information concerning this matter generally, contact James O'Connell, Manager, Credit Authorisations Division at the Authority (direct line: 020 7066 0328 / email: james.oconnell@fca.org.uk).

**Lucy McClements**  
**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.

#### *Principles for Businesses*

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

#### *Threshold Conditions in general*

6. COND 1.3.2G(2) provides 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 1.3.3AG provides that, in determining the weight to be given to any relevant matter, the Authority will consider its significance in relation to the regulated activities for which the firm has, or will have, permission in the context of its ability to supervise the firm adequately, having regard to the Authority’s statutory objectives. In this context, a series of matters may be significant when

taken together, even though each of them in isolation might not give serious cause for concern.

### **Threshold Condition 2C: Effective Supervision**

8. COND 2.3.3G states that, in assessing the threshold condition set out in paragraph 2C of Schedule 6 to the Act, factors which the Authority will take into consideration include, among other things, whether 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 Authority).

### **Threshold Condition 2D: Appropriate resources**

9. COND 2.4.1BG states that the relevant appropriate resources for threshold condition 2D are set out in paragraph 2D of Schedule 6 to the Act.
10. COND 2.4.2G(2) provides that, non-financial resources of the firm will include human resources.
11. COND 2.4.2G(2A) provides that, 'non-financial resources' of the firm include human resources it has available.

### **Threshold condition 2E: Suitability**

12. COND 2.5.2G(2) states that the Authority 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.
13. COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the threshold conditions, the Authority will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.
14. 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 the firm has been open and co-operative in all its dealings with the Authority (see Principle 11 (Relations with regulators)) and is ready, willing and organised to comply with the requirements and standards under the regulatory system.