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## FINAL NOTICE

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ABC Insolvency Services Limited  
Unit 7 Meersbrook Centre  
19 Valley Road  
Sheffield  
S8 9FT

31 March 2016

### **ACTION**

1. By an application dated 31 March 2015, ABC Insolvency Services Limited applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of credit broking, debt adjusting and debt counselling.
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 ABC Insolvency Services Limited will satisfy, and continue to satisfy, the Threshold Conditions set out in schedule 6 of the Act. ABC Insolvency Services Limited has failed to provide the information required by the Authority, despite several requests having been made.
5. By its Warning Notice dated 15 January 2016, the Authority gave notice that it proposed to refuse the Application and that ABC Insolvency Services Limited was entitled to make representations to the Authority about that proposed action.

6. As no representations have been received by the Authority from ABC Insolvency Services Limited 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 18 February 2016, the Authority gave ABC Insolvency Services Limited notice that it had decided to take the action described above.
8. ABC Insolvency Services Limited 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 ABC Insolvency Services Limited Final Notice of its refusal.
10. The Authority decided to refuse the Application and to give this Final Notice as ABC Insolvency Services Limited has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that ABC Insolvency Services Limited 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 Application" means the application dated 31 March 2015 from ABC Insolvency Services Limited applying for Part 4A permission as 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

"COND" means the part of the Authority's Handbook entitled 'Threshold Conditions'

"IDM" means Independent Debt Management Limited

"Mr Belk" means Geoffrey Belk, the sole Director of ABC Insolvency Services Limited

"the Decision Notice" means the Decision Notice dated 18 February 2016 given to ABC Insolvency Services Limited

"FIT" means the part of the Authority's Handbook entitled 'Fit and Proper test for Approved Persons'

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

"SUP" means the part of the Authority's Handbook entitled 'Supervision Manual'

“the Threshold Conditions” means the Threshold Conditions set out in Schedule 6 of the Act

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber)

“the Warning Notice” means the Warning Notice dated 15 January 2016 given to ABC Insolvency Services Limited

## **FACTS AND MATTERS**

12. The Application was received by the Authority on 31 March 2015.
13. Further information was requested from ABC Insolvency Services Limited under section 55U(5) of the Act. Details of all the communications between the Authority and ABC Insolvency Services Limited are set out below.
14. On 3 July 2015, ABC Insolvency Services Limited was asked to provide the following information in support of their application:
  - a. a review of the debt counselling and debt adjusting limitations; and
  - b. details of the acquisition of IDM clientele, including specified details of IDM clients’ financial status.
15. On 16 July 2015, ABC Insolvency Services Limited emailed a holding response stating:

*“Please note that this matter is in hand and we will revert to you with a full response as soon as possible.”*
16. By 31 July 2015, the Authority has still received no substantive response to its request for information
17. On 31 July 2015, the Authority emailed ABC Insolvency Services Limited 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 RTC that it issue ABC Insolvency Services Limited with a Warning Notice proposing to refuse the Application. No response was received to the email by the stated deadline of 7 August 2015.
18. On 12 August 2015, ABC Insolvency Services Limited emailed the Authority, requesting an extension until 24 August 2015, citing staffing issues.
19. On 13 August 2015, the Authority emailed ABC Insolvency Services Limited, granting an extension until 24 August 2015.
20. On 24 August 2015, ABC Insolvency Services Limited emailed the Authority, stating that they required an additional few days to respond due to staff illness.
21. On 23 September 2015, the Authority telephoned ABC Insolvency Services Limited but was unable to reach anyone on the office number provided on the application or the mobile telephone number provided on Mr Belk’s CV. A message was left by the Authority requesting ABC Insolvency Services Limited to return the Authority’s telephone call.

22. On 23 September 2015, the Authority emailed ABC Insolvency Services Limited, noting a lack of response to the request for additional information made on 31 July 2015 with the revised deadline of 24 August 2015.
23. On 30 September 2014, ABC Insolvency Services Limited telephoned the Authority, stating the lack of response was due to staffing issues.
24. On 30 September 2015, the Authority emailed ABC Insolvency Services Limited, confirming what was said in the telephone conversation and requesting the outstanding information by 5 October 2015.
25. On 9 October 2015, the Authority wrote to and emailed ABC Insolvency Services Limited, noting the lack of response to its email of 3 July 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 ABC Insolvency Services Limited with a Warning Notice proposing to refuse the application. No response was received to the letter by the stated deadline of 23 October 2015. The letter was returned to the Authority on the 21 October 2015 marked as "*Gone Away 13/10/2015*".
26. On 26 October 2015, the Authority wrote to and emailed ABC Insolvency Services Limited, noting the lack of response to its previous correspondence 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 this might result in a recommendation to the RTC that it issue ABC Insolvency Services Limited with a Warning Notice proposing to refuse the application. No response was received to this letter by the stated deadline of 9 November 2015. The letter was returned to the Authority on 28 October 2015.
27. The Authority received no substantive response to any of the communications set out above.
28. If ABC Insolvency Services Limited had replied to the queries set out above, the Authority would have sought further information in order to assess the Application.

## **IMPACT ON THRESHOLD CONDITIONS**

29. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
30. ABC Insolvency Services Limited has failed to respond to three 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 16 week period; each request included a statement to the effect that ABC Insolvency Services Limited must contact the Authority or face a Warning Notice.
31. The failure to provide the information requested raises concern as to whether ABC Insolvency Services Limited:
  - a. can be effectively supervised by the Authority as required by Threshold Condition 2C;
  - b. has appropriate human resources, given its failure to provide the Authority with the requested information, as required by Threshold Condition 2D; and

c. will conduct its business with integrity and in compliance with proper standards as required by Threshold Conditions 2E.

32. 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 ABC Insolvency Services Limited will satisfy, and continue to satisfy, the Threshold Conditions in relation to all of the regulated activities for which ABC Insolvency Services Limited would have permission if the application was granted.

### **IMPORTANT NOTICES**

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

### **Publication**

34. 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.

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

### **Authority contacts**

36. For more information concerning this matter generally, contact David Blocksidge, Manager, Credit Authorisations Division, at the Authority (direct line: 020 7066 2524/ email: david.blocksidge@fca.org.uk).

**David Fisher**  
**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. 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, 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).

#### ***Threshold Condition 2D: Appropriate 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 Authority 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 states that, when assessing whether a firm has appropriate resources, the Authority will have regard to matters including whether the firm has appropriate resources, the Authority will have regard to matters including whether the firm has taken reasonable steps to identify and measure any risks of regulatory concern that it may encounter in conducting its business and has installed appropriate systems and controls and appointed appropriate human resources to measure them prudently at all times

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

9. 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.
10. COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the Authority's Threshold Conditions, the Authority will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.
11. COND 1.3.3CG provides that, when assessing the Authority's Threshold Conditions, the Authority may have regard to any person appearing to be, or likely to be, in a relevant relationship with the firm, in accordance with section 55R of the Act (Persons connected with an applicant). For example, a firm's controllers, its directors or partners, other persons with close links to the firm (see COND 2.3), and other persons that exert influence on the firm which might pose a risk to the firm's satisfaction of the Authority's Threshold Conditions, would be in a relevant relationship with the firm.
12. COND 2.5.3G(1) states that the emphasis of the Threshold Conditions set out in paragraphs 2E and 3D of Schedule 6 of the Act is on the suitability of the firm itself. The suitability of each person who performs a controlled function will be assessed by the Authority and/or the PRA, as appropriate, under the approved persons regime (see SUP 10 (Approved persons) and FIT). In certain circumstances, however, the Authority may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.
13. 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 cooperative in all its dealings with the Authority and any other regulatory body 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;
- (2) the firm has made arrangements to put in place an adequate system of internal controls to comply with the requirements and standards for which the Authority is responsible under the regulatory system; and
- (3) those persons who perform controlled functions under certain arrangements entered into by the firm or its contractors act with due skill, care and diligence in carrying out their controlled function or managing the business for which they are responsible.