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## NOTICE OF DECISION

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To: **Albany Financial Consultants Ltd**

FRN: **709084**

Dated: **31 August 2023**

### **ACTION**

1. For the reasons given below, the Authority has decided to cancel AFC's Part 4A permission. The cancellation takes effect on the date of this Notice of Decision.
2. The effect of the cancellation is that AFC no longer has permission to carry on any regulated activities.

### **DEFINITIONS**

3. The definitions below are used in this Notice of Decision (and in the Annex):

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

"AFC" means Albany Financial Consultants Ltd;

“AFC’s Part 4A permission” means the Part 4A permission granted by the Authority to AFC;

“the Authority” means the Financial Conduct Authority;

“DISP” means the Authority’s Dispute Resolution: Complaint’s sourcebook, part of the Handbook;

“EG” means the Enforcement Guide;

“the Further Notice” means the further notice issued by the Authority to AFC dated 2 August 2023;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“the Notice” means the notice issued by the Authority to AFC dated 27 June 2023;

“Part 4A permission” means permission to conduct regulated activities, granted by the Authority under Part 4A of the Act;

“RAG” means regulated activity group as referred to in SUP;

“the Returns” means the CCR and Retail Mediation Activities returns relating to the period from 1 January 2022 to 31 December 2022 which were due for submission on various dates between 11 August 2022 and 13 February 2023;

“SUP” means the Supervision Manual, part of the Handbook; and

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

## **FACTS AND MATTERS**

4. AFC was authorised by the Authority on 9 December 2015 and given a Part 4A permission to conduct the following regulated activities:
  - a. agreeing to carry on a regulated activity;
  - b. in relation to insurance:
    - i. advising on investments (except on Pension Transfers and Pension Opt Outs);
    - ii. arranging (bringing about) deals in investments;
    - iii. Making arrangements with a view to transactions in investments;
  - c. in relation to mortgages & home finance:
    - i. advising on regulated mortgage contracts;
    - ii. arranging (bringing about) regulated mortgage contracts;
    - iii. making arrangements with a view to regulated mortgage contracts;
  - d. in relation to consumer credit:
    - i. credit broking;
    - ii. debt-counselling;
    - iii. providing Credit Information Services;
  - e. in relation to pensions:
    - i. advising on investments (except on Pension Transfers and Pension Opt Outs);

- ii. arranging (bringing about) deals in investments;
    - iii. making arrangements with a view to transactions in investments;
  - f. in relation to designated investments:
    - i. advising on investments (except on Pension Transfers and Pension Opt Outs);
    - ii. arranging (bringing about) deals in investments; and
    - iii. making arrangements with a view to transactions in investments.
- 5. Under SUP 16.3.13R, 16.12.3R, SUP 16.12.4R, SUP 16.12.11R, SUP 16.12.22AR (and the further rules specified therein) and SUP 16.12.29CR in Chapter 16 of SUP and DISP 1.10.1R, AFC is required to submit the Returns to the Authority by the relevant due date. However, AFC has failed to submit the Returns to the Authority. The Authority therefore considers that AFC has failed to provide information to the Authority as is required by the Handbook, namely the information it is required to provide in the Returns.
- 6. On 27 June 2023, the Authority gave AFC the Notice which stated that:
  - (a) it appears to the Authority that AFC is carrying on no regulated activity to which its Part 4A permission relates; and
  - (b) the Authority may take action to cancel AFC's Part 4A permission unless it responds to the Notice in the manner specified in the directions to the Notice.
- 7. AFC failed to respond to the Notice.
- 8. As a result of the matters specified above, on 2 August 2023, the Authority gave AFC the Further Notice which stated that:
  - a) the Authority considered that AFC is carrying on no regulated activity to which its Part 4A permission relates; and
  - b) the Authority proposes to cancel AFC's Part 4A permission on 31 August 2023 unless AFC takes the steps specified in the directions to the Further Notice.
- 9. AFC failed to take the steps specified in the Further Notice.

#### **CANCELLATION OF PART 4A PERMISSION**

- 10. From the facts and matters described above, and having regard to paragraph 1(3) of Schedule 6A to the Act, the Authority considers that AFC is carrying on no regulated activity to which its Part 4A permission relates. The Authority has therefore decided to cancel AFC's Part 4A permission. The cancellation of AFC's Part 4A permission takes effect on the date of this Notice of Decision.
- 11. The statutory and regulatory provisions relevant to this Notice of Decision are set out in the Annexes.

#### **PROCEDURAL MATTERS**

- 12. This Notice of Decision is given to AFC under paragraph 3 of Schedule 6A to the Act (variation or cancellation of Part 4A permission on initiative of FCA: additional power).

**The following paragraphs are important.**

**Annulment of the Authority's decision**

13. If AFC is aggrieved by the decision to cancel its Part 4A permission as set out in this Notice of Decision, AFC may make an application for an annulment of the Authority's decision under paragraph 4 of Schedule 6A to the Act.
14. AFC must submit a completed application for an annulment of the Authority's decision to the Authority by **30 August 2024** and in the manner specified by the Authority.

**The Tribunal**

15. AFC does not have a right to refer the decision to give this Notice of Decision to the Tribunal.

**Publicity**

16. The Authority intends to publish such information about the matter to which this Notice of Decision relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate.

**Authority Contact**

17. For more information concerning this matter generally, AFC should contact Toby Hiscock (direct line: 020 7066 0918).

**Jeremy Parkinson**  
**Enforcement and Market Oversight Division**

**ANNEX ON CANCELLATION OF PART 4A PERMISSION ON INITIATIVE OF FCA:  
ADDITIONAL POWER**

**RELEVANT STATUTORY PROVISIONS**

1. The Authority's operational objectives established in section 1B of the Act include protecting and enhancing the integrity of the UK financial system and securing an appropriate degree of protection for consumers.
2. The Authority is authorised by paragraphs 1(1) and (2) of Schedule 6A to the Act to cancel an Authority-authorised person's Part 4A permission, if it appears to the Authority that the Authority-authorised person is carrying on no regulated activity to which the permission relates.
3. Paragraph 1(3) of Schedule 6A of the Act provides that the circumstances in which the Authority may form the view that an Authority-authorised person is carrying on no regulated activity include (but are not limited to) circumstances where the person fails—
  - (a) to provide such information to the Authority as is required by the Handbook.
4. The Authority must exercise its power to cancel an Authority-authorised person's Part 4A permission using its additional own initiative power in accordance with the procedure set out in paragraph 2 of Schedule 6A to the Act.

**RELEVANT HANDBOOK PROVISIONS**

5. In exercising its power to cancel an Authority-authorised person's Part 4A permission, the Authority must have regard to the regulatory requirements and guidance published in the Handbook and in regulatory guides, such as EG. The main considerations relevant to the action stated in this Notice of Decision are set out below.

**Relevant Rules**

6. SUP 16.3.13R(1) requires that:

"A *firm* must submit a report required by this chapter in the frequency, and so as to be received by the [Authority] no later than the due date, specified for that report."
7. SUP 16.3.13R(4) states that:

"If the due date for submission of a report required by this chapter is a set period of time after the end of a half-year, a quarter, or a month, the dates will be determined by (a) or (b) below except where otherwise indicated:

  - (a) the *firm's accounting reference date*;
  - (b) monthly, 3 monthly or 6 months after the *firm's accounting reference date*, as the case may be."
8. The specific reporting requirements for AFC are set out in SUP 16.12.3R, SUP 16.12.4R, SUP16.12.11R, SUP 16.12.22AR and SUP 16.12.29CR and DISP 1.10.1R which stipulate the

type, frequency and due date of the regulatory report which AFC is required to submit, according to the regulated activities which AFC has permission to conduct:

<b>RAG Number</b>	<b>Return(s) applicable (Relevant rule)</b>	<b>Frequency of return(s) to be submitted (Relevant rule)</b>	<b>Due date of return(s) to be submitted (Relevant rule)</b>
RAG 3	RMA-A RMA-B RMA-C RMA-D1 RMA-E RMA-F RMA-G RMA-I RMA-J (SUP 16.12.11R)	Half yearly (SUP 16.12.12R)	30 business days (SUP 16.12.13R)
RAG 7	RMA-K (SUP 16.12.22AR)	Annually (SUP 16.12.23AR)	30 business days (SUP 16.12.24AR)
RAG 12 (Credit-related regulated activity)	CCR002 (SUP 16.12.29CR)	Annually (SUP 16.12.29CR)	30 business days (SUP 16.12.29CR)
Complaints return (DISP 1.10.1R(1))	Complaints (DISP 1.10.1R)	Half yearly (DISP 1.10.1R)	30 business days (DISP 1.10.5R)
Consumer Credit full permission firms (DISP 1.10.1R(2))	CCR-Complaints (DISP 1.10.1R)	Annually (DISP 1.10.1R)	30 business days (DISP 1.10.5R)

9. AFC also falls into RAGs 7, 8 and 9. However, the applicable data items are of the same name and purpose as data items applicable to AFC under RAG 3. It is therefore not required to submit these same data items for RAGs 7, 8 and 9.

**Guidance concerning the use of the Authority’s additional power to cancel an authorised firm’s Part 4A permission on its own initiative**

10. Guidance on the use of the Authority’s power to cancel an Authority-authorized person’s Part 4A permissions on its own initiative under Schedule 6A to the Act is set out in SUP and EG.
11. EG 8.5.2A states that the Authority may cancel the Part 4A permission of a firm that is an Authority-authorized person, under Schedule 6A of the Act, if:
- (1) it appears to the Authority that the firm is carrying on no regulated activity to which the permission relates; and
  - (2) the firm has failed to respond as directed by the Authority to notices served by the Authority to the firm under paragraph 2 of Schedule 6A.
12. EG 8.5.2A also states that Schedule 6A specifies that the Authority may form the view that a firm is carrying on no such regulated activity on the basis of its failure to pay a periodic fee or levy or provide information to the Authority, in each case as required by the Handbook.
13. SUP sets out further guidance on the Authority’s power under Schedule 6A of the Act. In particular, SUP 7.2.2AG states that the Authority may decide to cancel an Authority-authorized person’s Part 4A permission using its powers under Schedule 6A of the Act:

- (1) if that person appears to the Authority not to be carrying on any regulated activity to which the permission relates, including, without restriction, if the person has failed to:
  - (a) provide the Authority with information required under the Handbook; and
- (2) if that person, when served by the Authority with two notices under paragraph 2 of Schedule 6A of the Act, has not:
  - (a) responded in the manner directed, in those notices or otherwise, by the Authority; nor
  - (b) taken other steps as may also be directed by the Authority;

the second of which notices will specify the effective date of the proposed cancellation.

14. SUP 7.2.2DG states that:

- (1) the Authority's additional own-initiative variation power under Schedule 6A to the Act (which includes the power to cancel the Part 4A permission of an Authority-authorized firm under Schedule 6A of the Act and references to "additional own-initiative variation power" in the remainder of this Notice of Decision should be read as such) has, unlike the Authority's own-initiative variation power under section 55J of the Act, a single basis: that it appears to the Authority that the relevant Authority-authorized person is not carrying on any regulated activity to which its Part 4A permission relates.
- (2) if the Authority uses its additional own-initiative variation power, it is therefore more likely to cancel the relevant firm's Part 4A permission, rather than merely varying it by removing or amending the description of one or more such activities or by imposing one or more limitations.
- (3) the Authority will, however, consider all relevant facts and circumstances, including, without restriction:
  - (a) the relevant firm's responses, if any, to the notices given by the Authority under paragraph 2 of Schedule 6A; and
  - (b) if applicable, the factors described in SUP 6.4.22G, including whether there are any matters relating to the firm requiring investigation,

before deciding whether to use its additional own-initiative variation power and whether to use it to cancel or vary.

15. SUP 7.2.7G(1) states that a firm has no right of referral to the Tribunal in respect of the Authority exercising its additional own-initiative variation power, under Schedule 6A to the Act, on the Authority-authorized firm's Part 4A permission.