
DECISION NOTICE

B E Insulated Limited
1 Barnes Wallis Road
Fareham
Hampshire
PO15 5UA

9 April 2015

ACTION

1. By an application dated 11 April 2014 ("the Application") B E Insulated Limited ("B E Insulated") applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of credit broking.
2. The Application is incomplete.
3. For the reasons listed below, the Authority has decided to refuse the Application.

SUMMARY OF REASONS

4. By its Warning Notice dated 12 March 2015 ("the Warning Notice") the Authority gave notice that it proposed to refuse the Application and that B E Insulated was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from B E Insulated 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. B E Insulated has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that B E Insulated will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
7. The initial application by B E Insulated was incomplete. The Authority has made repeated requests to B E Insulated for further information. B E Insulated has failed to provide the outstanding information.
8. For the reasons set out below the Authority cannot ensure that B E Insulated will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 to the Act
9. By failing to provide the outstanding information, B E Insulated has not satisfied the Authority that it 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 Decision 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.

"COND" means the Principles for Business section of the FCA Handbook.

FACTS AND MATTERS

11. The Application was received on 11 April 2014.

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

- (1) On 10 September 2014 the Authority sent an email to B E Insulated seeking confirmation as to whether it only offered ECO bursaries to consumers. A reply was required by 15 September 2014 to enable the Authority to complete its assessment of the Application.
- (2) On 20 October 2014 the Authority sent an email to B E Insulated requesting a response to the email dated 10 September 2014 by 24 October 2014.
- (3) On 18 November 2014 Ben Williams ("Mr Williams"), the sole director of B E Insulated contacted the Authority's Consumer Contact centre and indicated that B E Insulated had not received any contact from the Authority and that it been six months since it applied for authorisation.
- (4) On 18 November 2014 the Authority received a voicemail from Mr Williams who claimed he had not received any information from the Authority and complained at the fact that the Application had not yet been decided.

- (5) On 18 November 2014 the Authority spoke to Mr Williams who confirmed that he had checked his inbox, found the emails previously sent by the Authority and apologised for the message. Mr Williams confirmed that he would check his emails and reply at his earliest convenience to the Authority's request for further information.
- (6) On 18 November 2014 the Authority received an email from B E Insulated confirming that it would not be offering to broker loans and indicating that it wanted to be a Green Deal provider.
- (7) On 20 November 2014 the Authority contacted B E Insulated to clarify whether it was providing Green Deal services. B E Insulated confirmed that it was not conducting Green Deal services but merely providing ECO bursaries to consumers.
- (8) On 20 November 2014 the Authority received an email from B E Insulated confirming that it only offered ECO bursaries but may offer Green Deal applications in the future.
- (9) On 20 November 2014 the Authority emailed B E Insulated to confirm that it would consider the Application on the basis that B E Insulated would only offer ECO bursaries. B E Insulated was informed that if it wished to add Green Deal permissions in the future it could apply to vary its authorisation to include this. The Authority asked B E Insulated to confirm it understood this.
- (10) On 1 December 2014 the Authority emailed B E Insulated requesting a response to the email sent on 20 November 2014 by 5 December 2014.
- (11) On 1 December 2014 B E Insulated confirmed that it fully understood the request sent by email on 20 November 2014 and asked for an estimate as to when the application would be determined.
- (12) On 1 December 2014 the Authority emailed B E Insulated to confirm that ECO Bursary did not fall under Consumer Credit regulations and therefore B E Insulated did not need to be authorised. The Authority asked B E Insulated whether it would like to withdraw the Application.
- (13) On 1 December 2014 B E Insulated emailed the Authority to confirm that it wanted to continue with the Application as it required authorisation to offer Green Deal finance.
- (14) On 2 December 2014 B E Insulated emailed the Authority to confirm that it wanted to become a Green Deal provider.
- (15) On 3 December 2014 the Authority received a telephone call from B E Insulated to confirm it would like to continue with its application for Full Permission Credit Broking because its financial backer wanted it to be authorised by the Authority.
- (16) On 3 December 2014 the Authority sent further questions to B E Insulated by email to gain a better understanding of the firm and its processes. The Authority requested a response by 10 December 2014.

- (17) On 12 December 2014 the Authority sent an email and letter, by recorded delivery, to B E Insulated requesting that the outstanding information be provided by 19 December 2014.
 - (18) On 23 December 2014 the Authority sent an email and letter by recorded delivery to B E Insulated requesting it provide the outstanding information by 6 January 2015.
 - (19) On 6 January 2015 the Authority received an email from Amy Bower B E Insulated requesting additional time to submit the outstanding information. A deadline of 21 January 2015 was imposed and confirmed by email on 8 January 2015.
 - (20) On 28 January 2015 the Authority emailed and sent a final letter by recorded delivery to B E Insulated asking for the requested information by 4 February 2015.
13. No response has been received indicating that any of the letters could not be delivered.
14. The Authority did not receive adequate responses to the communications set out above.
15. During the above period, the Authority received ten responses to the communications sent to B E Insulated (an email on 19 June 2014, a telephone call on 18 November 2014, a voicemail on 18 November 2014, an email on 18 November 2014, an email on 20 November 2014, two emails on 1 December 2014, an email on 2 December 2014, a telephone call on 3 December 2014 and an email on 6 January 2015). However, the information provided in these communications has been insufficient to enable the Authority to determine the Application as B E Insulated has failed to provide adequate responses to the Authority's requests for information.

IMPACT ON THRESHOLD CONDITIONS

16. The regulatory provisions relevant to this Decision Notice are referred to in Annex A.
17. By virtue of B E Insulated's failure to provide the requested information and, from 8 January 2015, to reply at all to the Authority's correspondence, the Authority cannot ensure that B E Insulated satisfies, and will continue to satisfy, the following threshold conditions:

2C (Effective Supervision)

- i. B E Insulated'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 B E Insulated'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, B E Insulated has been unable to satisfy the Authority

that it has the appropriate human resources appropriate in relation to the regulated activities it seeks to carry on.

2E (Suitability)

- iii. The failure by B E Insulated to supply the information requested means it is not being open and co-operative with the Authority or being ready, willing and organised to comply in its dealings with the Authority.

18. On the basis of the facts and matters described above, in particular the failure to provide the information required by the Authority, and in the absence of the information sought, the Authority has concluded that B E Insulated will not satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which B E Insulated would have permission if the application was granted.

PROCEDURAL MATTERS

Decision maker

19. The decision which gave rise to the obligation to give this Decision Notice was made by Lucy McClements, Head of Department in the Authorisations Division on behalf of the Regulatory Transactions Committee ("RTC"), in accordance with the provisions on non-responder cases as set out in the terms of reference of that Committee.

20. This Decision Notice is given under section 55X(4) and in accordance with section 388 of the Act. The following statutory rights are important.

The Upper Tribunal

21. B E Insulated has the right to refer the matter to which this Decision Notice relates to the Upper Tribunal (formerly known as the Financial Services and Markets Tribunal). Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, B E Insulated has 28 days from the date on which this Decision Notice is given to B E Insulated to refer the matter to the Upper Tribunal. A reference to the Upper Tribunal is made by way of a reference notice (Form FTC3) signed by B E Insulated (or on behalf of B E Insulated and filed with a copy of this Notice. The Upper Tribunal's address is:

The Upper Tribunal (Tax and Chancery Chamber)
Fifth Floor
Rolls Building
Fetter Lane
London
EC4A 1NL

(tel: 020 7612 9700/e-mail: financeandtaxappeals@hmcts.gsi.gov.uk).

Further details are contained in "Making a Reference to the UPPER TRIBUNAL (Tax and Chancery Chamber)" which is available from the Upper Tribunal website:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/t400-eng.pdf>

B E Insulated should note that a copy of the reference notice (Form FTC3) must also be sent to the Authority at the same time as filing a reference with the Upper Tribunal. A copy of the reference notice should be sent to Baljit Bhamra at the FCA, 25 The North Colonnade, Canary Wharf, London, E14 5HS.

22. Once any such referral is determined by the Tribunal and subject to that determination, or if the matter has not been referred to the Tribunal, the Authority will issue a Final Notice about the implementation of that decision.

Access to evidence

23. Section 394 of the Act does not apply to this Decision Notice.

Confidentiality and publicity

24. B E Insulated should note that this Decision Notice may contain confidential information and, unless it has been published by the Authority, should not be disclosed to a third party (except for the purpose of obtaining advice on its contents). B E Insulated should also note that, under section 391(1A) of the Act, a person to whom a Decision Notice is given or copied may not publish the Notice or any details concerning it unless the Authority has published the Notice or those details.
25. B E Insulated should also note, however, that the Authority must, under section 391(4) of the Act, publish such information about the matter to which a Decision Notice or Final Notice relates as it considers appropriate. A Decision Notice or Final Notice may contain reference to the facts and matters contained in this Notice.

Authority contacts

For more information concerning this matter generally, contact Baljit Bhamra, Manager, Credit Authorisations Division at the Authority (direct line: 020 7066 2250 /email: baljit.bhamra@fca.org.uk).

Lucy McClements
on behalf of the Regulatory Transactions Committee

ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS DECISION 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

Threshold Conditions - COND

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) 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. Under COND 1.3.3AG, 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.

8. COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the FCA threshold conditions, the FCA will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.

Threshold Condition 2C: Effective supervision

9. 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: Adequate Resources

10. 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.
11. COND 2.4.2G(2) provides that, non-financial resources of the firm will include human resources.
12. COND 2.4.2G(2A) provides that, "non-financial resources" of the firm include human resources it has available.

Threshold condition 2E: Suitability

13. 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.
14. 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 FCA and/or the PRA, as appropriate, under the approved persons regime (see SUP 10 (Approved persons) and FIT). In certain circumstances, however, the FCA may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.
15. Under COND 2.5.6G, when assessing whether a firm will satisfy, and continue to satisfy, threshold condition 2E the Authority may have regard 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.