
NOTICE OF DECISION TO CANCEL

To: **Finelease – Leasing European SA**
Address: **344-354 Gray's Inn Road, London, WC1X 8BP**
FRN: **589316**
Dated: **2 July 2020**

ACTION

1. For the reasons set out below and under regulation 60(3)(a) of the MLR, the Authority has decided to cancel FLES's Registration.

REASONS FOR THE ACTION

2. FLES has failed to pay a charge imposed by the Authority. The Authority may cancel FLES's Registration under regulation 60(3)(a) of the MLR, on the basis of the condition in regulation 59(1)(c)(iii) (which concerns the payment of charges and to which regulation 60(3)(a) refers).

DEFINITIONS

3. In this Notice (and in the Annex) —
"the Act" means the Financial Services and Markets Act 2000;
"Annex 1 financial institution" has the meaning given in regulation 55(2) of the MLR;
"the Authority" means the Financial Conduct Authority;
"EG" means the Enforcement Guide;

“FLES” means Finelease – Leasing European SA;

“FLES’s Registration” means the registration by the Authority for FLES as an Annex 1 financial institution under the MLR;

“the MLR” means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;

“the RDC” means the Regulatory Decisions Committee of the Authority (see further under Procedural Matters below); and

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

RELEVANT STATUTORY PROVISIONS

4. The statutory and regulatory provisions relevant to this Notice are set out in the Annex.

FACTS AND MATTERS RELIED ON

5. FLES was registered by the Authority on 19 October 2012 as an Annex 1 financial institution.
6. FLES has failed to pay periodic fees totalling £866 owed to the Authority (comprising an invoice for £433, which had been due for payment by 3 September 2016; and an invoice of £433, which had been due for payment by 16 October 2016).
7. By its Notice of Proposed Cancellation dated 28 May 2020, the Authority gave notice that it proposed to cancel FLES’s Registration and FLES was given the opportunity to make representations to the Authority about that proposed action.
8. Regulation 60(9) of the MLR requires the Authority then to decide whether to cancel FLES’s registration.
9. No representations have been received by the Authority from FLES within the time allowed by the Notice of Proposed Cancellation. The Authority has therefore decided to cancel FLES’s Registration for the reasons described above. The cancellation of FLES will take effect on 4 August 2020.

PROCEDURAL MATTERS

Decision maker

10. The decision which gave rise to the obligation to give this Notice of Decision to Cancel was made by the Chair of the RDC. The RDC is a committee of the Authority which takes certain decisions on behalf of the Authority. The members of the RDC are separate to the Authority staff involved in conducting investigations and recommending action against firms and individuals. Further information about the RDC can be found on the Authority’s website:

<https://www.fca.org.uk/about/committees/regulatory-decisions-committee-rdc>

11. This Notice of Decision to Cancel is given to FLES under Regulation 60(9)(b) and is being served on FLES at the address last notified to the Authority as FLES's principal place of business.

The Tribunal

12. FLES has the right to appeal the decision to cancel to the Tribunal. The Tax and Chancery Chamber is the part of the Upper Tribunal which, among other things, hears appeals arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 to the Tribunal Procedure (Upper Tribunal) Rules 2008, FLES has 28 days from the date on which this Notice is given to FLES to refer the appeal to the Tribunal.
13. An appeal to the Tribunal is made by way of a signed reference notice (Form FTC3) filed with a copy of this Notice. The Tribunal's contact details are: Upper Tribunal, (Tax and Chancery Chamber), Fifth Floor, Rolls Building, Fetter Lane, London, EC4A 1NL (tel: 020 7612 9730; email: fs@hmcts.gsi.gov.uk).
14. For further information on the Tribunal, FLES should refer to the HM Courts and Tribunal Service website. Guidance on making a reference to the Tribunal and the relevant form to complete (Form FTC3) can be accessed from the following link:

<https://www.gov.uk/government/collections/upper-tribunal-tax-and-chancery-chamber>
15. A copy of Form FTC3 must also be sent to Funmi Ojo at the Authority, 12 Endeavour Square, London E20 1JN at the same time as filing a reference with the Upper Tribunal.

Access to evidence

16. A schedule of the material upon which the Authority has relied in deciding to give FLES this Notice was given to FLES with the Notice of Proposed Cancellation.

Confidentiality and publicity

17. This Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining advice on its contents).
18. However, the Authority may publish such information about the matter to which a Notice served under Regulation 60(9) relates as it considers appropriate. The information published may contain reference to the facts and matters contained in this Notice.

Contacts

19. For more information concerning this matter generally, FLES should contact Funmi Ojo at the Authority (direct line: 020 7066 1354).



Tim Parkes
Chair, Regulatory Decisions Committee

ANNEX

RELEVANT STATUTORY PROVISIONS

1. Regulation 35(1) of the Money Laundering Regulations 2007 provided:

“The Authority [...] may impose charges—

- (a) on applicants for registration;
- (b) on relevant persons supervised by them.”

2. Regulation 55(1) of the MLR provides:

“The [Authority] may maintain a register of Annex I financial institutions.”

3. Regulation 55(6) of the MLR provides:

“The register maintained by the registering authorities must include entries in any equivalent registers maintained under regulation 32 of the Money Laundering Regulations 2007 which were current immediately before the date that regulation was revoked.”

4. Regulation 59(1) of the MLR provides:

“Subject to regulation 58, the registering authority may refuse to register an applicant for registration in a register maintained under regulation 54 or 55 only if—

[...]

- (c) the applicant has failed to pay [...]

(iii) a penalty or charge imposed under regulation 35(1) or 42(1) of the Money Laundering Regulations 2007.”

5. Regulation 60(3) of the MLR provides:

“The registering authority may [...] cancel a person’s registration in a register maintained by it under regulation 54 or 55 if, at any time after registration—

- (a) it appears to the authority that any of paragraphs (a) to (e) of regulation 59(1) apply;

[...]”

6. Regulation 60(8) of the MLR provides:

“Where the [Authority] is minded to suspend or cancel a person’s registration it must give that person notice—

- (a) that it is so minded;
- (b) if appropriate, the proposed period of the suspension;

- (c) the reasons for being so minded; and
- (d) the right to make representations to it within the period specified in the notice (which must not be less than 28 days)."

7. Regulation 60(9) of the MLR provides:

"The [Authority] must then decide, within a reasonable period, whether to suspend or cancel the person's registration and it must give that person notice of—

- (a) its decision not to be suspend or cancel the person's registration; or
- (b) the following matters-
 - i. the decision not to suspend or cancel the person's registration and, subject to paragraph 10, the date from which the suspension or cancellation takes effect;
 - ii. the period of the suspension;
 - iii. the reasons for its decision; and
 - iv. the right to appeal under regulation 93."

OTHER RELEVANT REGULATORY PROVISIONS

- 8. The Authority's policy in relation to exercising its enforcement powers is set out in EG, the relevant provisions of which are summarised below.
- 9. EG 19.14.7 provides that, in relation to the MLR, the Authority has decided to adopt enforcement and decision-making procedures, in relation to the use of its investigation and sanctioning powers, broadly akin to those it has under the Act. The types of circumstances in which the Authority will consider cancelling a firm's Part 4A Permission under the Act include non-payment of Authority fees or repeated failures to pay Authority fees except under threat of Enforcement action: EG 8.5.2(5).