
FINAL NOTICE

**A & A Windows Direct Limited
Unit 16 Riverside Business Park
Harlow
Essex
CM20 2HE**

5 November 2021

ACTION

1. By an application dated 29 April 2020 ("the Application"), A & A Windows Direct Limited ("AAWDL") applied under section 61(1) of the Act for Part V approval for Aaron Jenkins ("the Candidate") to perform the SMF29 Limited Scope Function.
2. The Application is incomplete.
3. The Authority has refused the Application.

SUMMARY OF REASONS

4. By its Warning Notice dated 24 June 2021, the Authority gave notice that it proposed to refuse the Application and that AAWDL was entitled to make representations to the Authority about that proposed action.
5. As no representations were received by the Authority from AAWDL 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 applied, 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 10 August 2021, the Authority gave AAWDL notice that it had decided to take the action described above.
7. AAWDL had 28 days from the date the Decision Notice was given to refer the matter to the Upper Tribunal.

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 Upper Tribunal, must give AAWDL a final notice of its refusal.
9. AAWDL has failed to respond to 10 separate requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined. The last two requests included a statement to the effect that AAWDL must contact the Authority within 10 business days, or the Authority would recommend to the Authority's Regulatory Transactions Committee that AAWDL receive a Warning Notice. No response was received.
10. The Authority has therefore determined the Application based upon the information received to date, in circumstances where its requests for information have not been answered. Having reviewed that information, the Authority cannot be satisfied that the Candidate is a fit and proper person to perform the SMF29 Limited Scope Function.

DEFINITIONS

11. The definitions below are used in this Decision Notice.

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

"the Application" means the application referred to in paragraph 1 above;

"the Authority" means the Financial Conduct Authority;

"the Candidate" means Mr Aaron Jenkins, in respect of whom the Application is made;

"DBS" means Disclosure and Barring Service;

"the Decision Notice" means the decision notice dated 10 August 2021 given to AAWDL by the Authority;

"FIT" means the Fit and Proper test for Employees and Senior Personnel section of the Authority's Handbook;

"the RDC" means the Authority's Regulatory Decisions Committee;

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

"the Tribunal" means the Upper Tribunal (Tax & Chancery Chamber); and

“the Warning Notice” means the warning notice dated 24 June 2021 given to AAWDL by the Authority.

FACTS AND MATTERS

12. The Application was received by the Authority on 7 May 2020.
13. Further information was requested from AAWDL under section 55U(5) of the Act.
14. Details of all relevant communications between the Authority and AAWDL are set out below.
15. Between 6 August 2020 and 25 March 2021, the Authority sent AAWDL six emails, two recorded delivery letters and made two telephone calls in an attempt to obtain information from AAWDL that was reasonably considered by the Authority to be necessary to enable the Authority to determine the Application. These requests were made over a 32 week period.
16. On 6 August 2020, the Authority sent an email to AAWDL requesting that the firm provide the following information in support of the Application by 13 August 2020 (“the outstanding information”):
 - a. contact details for a separate individual at AAWDL with whom it could liaise in relation to the Application, or confirmation that the Candidate is the sole director of AAWDL;
 - b. the date of a recent DBS check;
 - c. a copy of the Candidate’s current CV;
 - d. details as to why the Candidate is competent to perform the role; and details of AAWDL’s sales processes.
17. On 13 October 2020, the Authority sent an email to AAWDL requesting for the outstanding information by 27 October 2020.
18. On 11 December 2020, the Authority sent a further email to AAWDL requesting the outstanding information by 18 December 2020.
19. On 11 December 2020, the Authority attempted to call AAWDL to discuss the Application, but a representative of AAWDL stated that the Candidate was busy. The Authority provided a telephone number and requested a call back from AAWDL.

20. On 27 January 2021, the Authority sent an email to AAWDL requesting confirmation that a standard DBS check had been undertaken and the results of the check by 3 February 2021.
21. On 4 February 2021, the Authority sent another email to AAWDL requesting confirmation that a standard DBS check had been undertaken and the results of the check by 7 February 2021.
22. On 9 February 2021, the Authority sent a final letter to AAWDL by way of email and recorded delivery. The letter and email informed AAWDL that a failure to provide the information would result in the Application being determined based upon the information received to date and that this would result in a recommendation to the RTC that it give AAWDL a Warning Notice proposing to refuse the Application. The Authority received confirmation that the letter was collected and signed for on 13 February 2021. The letter provided AAWDL with a period of 10 business days to provide the outstanding information, therefore by 23 February 2021. AAWDL failed to provide the outstanding information by the required deadline, or to date.
23. On 24 March 2021, the Authority attempted to call AAWDL to discuss the Application, but a representative of AAWDL stated that the Candidate was not present. The Authority provided a telephone number and requested a call back from AAWDL.
24. On 25 March 2021, the Authority sent a copy of the final letter to AAWDL's new address by recorded delivery. The letter provided AAWDL with a period of 10 business days within which to provide the outstanding information, therefore by 8 April 2021. AAWDL failed to provide the outstanding information by the required deadline, or to date.

IMPACT ON THE CANDIDATE'S FITNESS AND PROPRIETY

25. AAWDL has failed to respond to 10 separate requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined. The final request gave AAWDL 10 business days to respond and included a statement to the effect that AAWDL must contact the Authority, or the Authority would recommend to the RTC that AAWDL receives a Warning Notice.
26. The Authority has therefore determined the Application based upon the information received to date, in circumstances where its requests for information have not been met. Having reviewed that information, the Authority is not satisfied that the Candidate in respect of whom the application is made is a fit and proper person to perform the function to which the Application relates.

27. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and cooperative way. The failure to provide the requested information raises concerns that the Candidate lacks the competence and capability to carry out the senior management function to which the Application relates.
28. The failure to provide the information raises concerns as to whether the Candidate:
- a. can satisfy the FIT criteria in relation to FIT 2.2 (Competence and Capability); and
 - b. will conduct the senior management function to which the Application relates with due skill and care and in compliance with proper standards as required by FIT.

IMPORTANT NOTICES

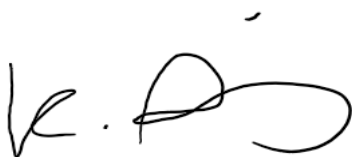
29. This Final Notice is given under section 390(1) of the Act.

Publication

30. 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.
31. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

32. For more information concerning this matter generally, contact Laura Moloney, Manager, Approved Persons and Mutuals at the Authority (direct line: 020 7066 1619 / email: laura.moloney@fca.org.uk).



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Karen Avis
Executive Decision maker on behalf of the Authority

ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS FINAL NOTICE

Relevant statutory provisions

1. The Authority may grant an application for approval under section 60 of the Act only if it is satisfied that the person in respect of whom the application is made is a fit and proper person to perform the controlled function to which the application relates (section 61(1) of the Act).
2. Section 390(1) of the Act requires the Authority, if it refuses the application, to issue a Final Notice.

Relevant provisions of the Authority's Handbook

3. The Fit and Proper test for Approved Persons ("FIT") sets out the criteria that the Authority will consider when assessing the fitness and propriety of a person to perform a particular controlled function.
4. The most important considerations to which the Authority will have regard include the person's competence and capability.
5. If a matter comes to the Authority's attention which suggests that the person might not be fit and proper, the Authority will take into account how relevant and important that matter is (FIT 1.3.4G).
6. In determining a person's competence and capability the matters to which the Authority will have regard include:
 - (1) whether the person satisfies the relevant Authority training and competence requirements in relation to the controlled function the person performs or is intended to perform (FIT 2.2.1G (1));
 - (2) whether the person has demonstrated by experience and training that the person is suitable, or will be suitable if approved, to perform the controlled function (FIT 2.2.1G (2)); and
 - (3) whether the person has adequate time to perform the controlled function and meet the responsibilities associated with that function (FIT 2.2.1G (3)).