
FINAL NOTICE

Accident & Injury Assist

396 Ladypool Road
Birmingham
West Midlands
B12 8JZ

17 December 2020**ACTION**

1. By an application dated 29 July 2019 (“the Application”), Accident & Injury Assist (“AIA”) applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of:
 - i. agreeing to carry on a regulated activity;
 - ii. advice, investigation or representation in relation to a criminal injury claim.
2. The Application is incomplete.
3. For the reasons listed below, the Authority has refused the Application.

SUMMARY OF REASONS

4. By its Warning Notice dated 24 September 2020, the Authority gave notice that it proposed to refuse the Application and that AIA was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from AIA 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. By its Decision Notice dated 10 November 2020, the Authority gave AIA notice that it had decided to take the action described above.
7. AIA had 28 days from the date the Decision Notice was given to refer the matter to the Tribunal. No referral was made to the Tribunal within this period of time or to date.
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 Tribunal, must give AIA Final Notice of its refusal.
9. The Authority has decided to refuse the Application and to give this Final Notice as AIA has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that AIA will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
10. AIA failed to respond to at least six separate requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined. The last request included a statement to the effect that AIA must contact the Authority within 10 business days, or the Authority would recommend to the Authority's Regulatory Transactions Committee that AIA receive a Warning Notice.
11. 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 cannot ensure that AIA satisfies, and will continue to satisfy, the threshold conditions.
12. 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 raised concerns that AIA would fail to do so if the Application were to be granted.
13. The failure to provide the information raised concerns as to whether AIA:
 - a. can be effectively supervised by the Authority as required by Threshold Condition 2C (Effective Supervision);
 - b. has appropriate human resources, given AIA's failure to provide the Authority with the requested information as required by Threshold Condition 2D (Appropriate Resources); and
 - c. will conduct its business with integrity and in compliance with proper standards as required by Threshold Condition 2E (Suitability).

DEFINITIONS

14. The definitions below are used in this Final 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 Decision Notice" means the Decision Notice dated 10 November 2020;

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

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

"SUP" means the Supervision section of the Authority's handbook;

"SYSC" means the Senior Management Arrangements, Systems and Controls section of the Authority's handbook;

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

"the Warning Notice" means the warning notice dated 24 September 2020 given to AIA by the Authority.

FACTS AND MATTERS

15. The Application was received by the Authority on 29 July 2019.
16. Further information was requested from AIA under section 55U(5) of the Act.
17. Details of all relevant communications between the Authority and AIA are set out below.
18. Between 26 February 2020 and 14 July 2020, the Authority sent AIA four emails, one letter and made two telephone calls in an attempt to elicit information from AIA that would assist the Authority in determining the Application.
19. On 25 November 2019, AIA contacted the Authority by telephone to inform the Authority that it had applied for Part 4A permission to carry on the regulated activity of 'advice, investigation or representation in relation to a criminal injury claim' in error.
20. On 14 December 2019, AIA emailed the Authority correcting an error on its Application and requesting that the Authority note on its Application that it will not be dealing with criminal injury claims.
21. On 26 February 2020, the Authority sent AIA an email requesting the following information ("Outstanding Information") by 11 March 2020:
 - i. Vulnerable customer policy document
 - ii. Compliance procedures document
22. AIA failed to provide the Outstanding Information by 11 March 2020.
23. On 25 March 2020, the Authority sent an email to AIA noting the lack of a response to its email of 26 February 2019 and requested that AIA provide copies of the Outstanding Information.
24. On 30 March 2020, the Authority attempted to contact AIA by telephone and left a message with an individual for AIA to return the Authority's call. AIA did not return the Authority's call.
25. On 2 April 2020, the Authority sent an email to AIA requesting the Outstanding Information by 9 April 2020.

26. On 14 July 2020, the Authority attempted to contact AIA by telephone and the call was unanswered. The Authority left a voicemail requesting that AIA return the Authority's telephone call. AIA did not return the Authority's telephone call.
27. On 23 July 2020, the Authority sent a letter to AIA under cover of an email and by recorded delivery, noting the lack of a response to its requests for the information and requesting that AIA provide the compliance programme/procedures document within 10 business days, i.e. by 6 August 2020. The Authority informed AIA that a failure to provide the information would result in the Application being determined on the information received to date and that this might result in a recommendation to the RTC that it give AIA a Warning Notice proposing to refuse the Application. Confirmation of delivery of the letter was received by the Authority on 24 July 2020. AIA failed to provide the Outstanding Information by 6 August 2020.

IMPACT ON THRESHOLD CONDITIONS

28. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
29. AIA failed to respond to six separate requests for information the Authority considers necessary to determine the Application. The final request gave AIA 10 business days to respond, and included a statement to the effect that AIA must contact the Authority, or the Authority would recommend to the RTC that AIA receives a Warning Notice.
30. 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 cannot ensure that AIA satisfies, and will continue to satisfy, the Threshold Conditions.
31. 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 AIA would fail to do so if the Application were to be granted.
32. The failure to provide the information raises concerns as to whether AIA:
 - a. can be effectively supervised by the Authority as required by Threshold Condition 2C;
 - b. has appropriate human resources, given AIA's 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 Condition 2E.

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 Tina Archer, Manager, Claims Management Companies Department at the Authority (direct line: 020 7066 9188/ email: Tina.Archer@fca.org.uk).

James O'Connell
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 (“COND”). The main considerations in relation to the action specified are set out below.
5. 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.
6. COND 1.3.3AG provides that, 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.
7. COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the Authority threshold conditions, the Authority will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.

Threshold Condition 2C: Effective Supervision

8. 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: Appropriate Resources

9. 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.
10. COND 2.4.2G(2A) provides that 'non-financial resources' of the firm include human resources it has available.
11. COND 2.4.2G(3) states that high level systems and control requirements are in SYSC. The Authority will consider whether the firm is ready, willing and organised to comply with these and other applicable systems and controls requirements when assessing if it has appropriate non-financial resources for the purpose of the threshold conditions set out in threshold condition 2D.

Threshold condition 2E: Suitability

12. 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.
13. COND 2.5.4G(2)(a) states that examples of the kind of general considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, threshold condition 2E include, but are not limited to, whether the firm can demonstrate that it conducts, or will conduct, its business with integrity and in compliance with proper standards.
14. 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 the firm has been open and co-operative in all its dealings with the Authority and any other regulatory body (see Principle 11 (Relations with regulators)) and is ready, willing and organised to comply with the requirements and standards under the regulatory system (such as the detailed requirements of SYSC and, in relation to a firm not carrying on, or seeking to carry on, a PRA-regulated activity only, the Prudential Standards part of the Authority's Handbook) in addition to other legal, regulatory and professional obligations; the relevant requirements and standards will depend on the circumstances of each case, including the regulated activities which the firm has permission, or is seeking permission, to carry on.