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## **FINAL NOTICE**

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**Mr Waheed Asghar  
All Accident Claims Limited  
905 Romford Road  
London  
E12 5JT**

**23 December 2020**

### **ACTION**

1. By an application dated 31 July 2019, All Accident Claims Limited ("AAC") applied under section 55A of the Act for Part 4A permission to carry on the regulated activity of seeking out, referrals and identification of claims or potential claims.
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 19 October 2020 (the "Warning Notice") the Authority gave notice that it proposed to refuse the Application and that AAC was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from AAC 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 18 November 2020 (the "Decision Notice"), the Authority gave AAC notice that it had decided to take the action described above.
7. AAC had 28 days from the date the Decision Notice was given to refer the matter to the Upper Tribunal (formerly known as the Financial Services and Markets Tribunal). No referral was made to the Upper 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 AAC Final Notice of its refusal.
9. For the reasons set out herein, the Authority cannot ensure that AAC will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
10. AAC has failed on a number of occasions to provide documentation that is pivotal to the Application, giving rise to concerns that, if authorised, it will not meet the standards set out in Principle 11 of the Authority's Handbook of being open and honest with the regulator, and that it cannot be effectively supervised. Further, as a result of the quality of the documentation that has been provided, AAC has not demonstrated that it has adequate human resources who are sufficiently competent. Additionally, despite being requested to do so on a number of occasions, AAC has failed to confirm that it has call recording in place. Call recording is mandatory for claims management firms, pursuant to CMC0B 2.3.2R.
11. AAC has provided incorrect, inconsistent and unsubstantiated financial information to the Authority, which calls into question the credibility of the information. The Authority is therefore unable to rely upon the financial information in its assessment of the Application. Additionally, AAC has negative 'capital and reserves' and has been loss-making for at least the past two financial years. It has not provided any credible plans to demonstrate that it is financially viable on an ongoing basis.
12. In light of the above, the Authority considers that AAC has not demonstrated that it is ready, willing and organised to comply with the regulatory regime. Accordingly, the Authority cannot ensure that, if the Application was granted, AAC would satisfy, and continue to satisfy, threshold conditions 2C (Effective supervision), 2D (Appropriate resources), 2E (Suitability) and 2F (Business model).

13. In light of the above, the Authority has refused the Application.

## **DEFINITIONS**

14. The definitions below are used in this Final Notice:

“AAC” means the applicant, All Accident Claims Limited.

“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 body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority.

“CMCOB” means the Claims Management: Conduct of Business section of the Authority’s handbook.

“COND” means the Threshold Conditions section of the Authority’s handbook.

the “Decision Notice” means the decision notice dated 18 November 2020 given to AAC by the Authority.

“SUP” means the Supervision section of the Authority’s handbook.

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

the “Warning Notice” means the warning notice dated 19 October 2020 given to AAC by the Authority.

## **FACTS AND MATTERS**

### **Background to the firm**

15. AAC is a claims management company that was incorporated on 3 April 2014. Between 2 July 2014 and 31 March 2019, it was regulated by the Claims Management Regulator.

16. On 1 April 2019, AAC became regulated by the Authority under its Temporary Permission Regime. AAC applied for full permission on 31 July 2019.

### **Inadequate information**

17. AAC submitted with the Application the individual form for Mr Asghar and a business plan. AAC indicated in the Application that it would send later its opening balance sheet, forecast closing balance sheet, monthly cashflow forecast, monthly profit and loss forecast, annual accounts, and a compliance monitoring document. The Authority therefore first requested the missing documents, as well as a pre-contractual information

document, and a compliance procedure document<sup>1</sup>, on 9 September 2019, asking for a response by 16 September 2019.

18. AAC failed to provide the requested documents by the deadline and instead requested more time to respond.
19. However, AAC failed to provide the requested documents by the extended deadline, and the Authority therefore sent a letter to AAC on 21 November 2019 requesting the missing documents by 6 December 2019.
20. AAC failed to provide the requested documents by the extended deadline. The Authority therefore chased for a response by way of an updated information request letter dated 9 December 2019. The letter set out that AAC was still required to provide the following documents by 23 December 2019: opening balance sheet; closing balance sheet; projected monthly cash flow; projected monthly profit and loss; annual accounts; compliance monitoring document; and compliance procedure document.
21. AAC failed to respond. The Authority therefore sent a letter to AAC on 9 January 2020 again requesting the missing documents. The letter requested a response by 23 January 2020.
22. On 15 January 2020 AAC emailed the Authority, providing annual accounts as at 30 April 2018, a notice of privacy and a complaints policy. The complaints policy incorrectly refers to the Legal Ombudsman and Claims Management Regulator, whereas it should refer to the Authority and the Claims Management Ombudsman.
23. With the exception of the annual accounts, none of the documents previously requested by the Authority on numerous occasions had been provided at this point by AAC.
24. On 18 March 2020, the Authority telephoned AAC to set out its concerns with both the Application and the information provided during the application process. The Authority sent an email to AAC on the same day confirming the details of the telephone call, and requested outstanding and further information by 1 April 2020 (namely, the outstanding financial documents, vulnerable customers' policy (a document which the Application states AAC does not have), compliance monitoring plan and updated complaints'

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<sup>1</sup> The Authority at the time requested pre-contractual information and compliance procedures, as those are required for firms applying for the permission of advice, investigation or representation in relation to a personal injury claim. It became apparent later in the application process that AAC had requested the advising permission in error.

procedure). As it is a requirement under CMC OB 2.3.2R that a firm such as AAC has call recording in place, the Authority also asked AAC to confirm that it records calls.

25. AAC failed to provide the requested documents or confirmation of call recording, and so the Authority emailed AAC on 7 April 2020 to request an update. AAC responded on the same day, stating that AAC's office is closed due to Covid-19 and the sole director and shareholder (Mr Asghar) is in self-isolation. AAC apologised for the delay and was unable to provide a timeline for a response.
26. Over two months later, on 16 June 2020, AAC had still failed to provide the requested documents or confirmation of call recording. The Authority therefore telephoned AAC to seek an update on its situation. Mr Asghar confirmed the business was now open following his earlier illness and that AAC would provide the outstanding documents by 19 June 2020.
27. The Authority emailed AAC on 16 June 2020 confirming the content of the telephone call that day and requesting the outstanding documents by 19 June 2020.
28. One day before the deadline, on 18 June 2020 AAC requested an extension to 26 June 2020 on account of AAC's office having just opened. The Authority agreed to this extension.
29. On 23 June 2020 AAC emailed the Authority, providing the following documents: financial accounts for the year to 30 April 2019; complaints procedure; vulnerable customer policy; three introducer agreements between AAC and firms of solicitors; and a monthly cash flow forecast.
30. The complaints procedure provided on 23 June 2020 made no reference to the right of the consumer to refer their complaint to the Financial Ombudsman Service (or Claims Management Ombudsman). This is despite the fact that, over two months before the complaints procedure was provided, the Authority informed AAC on 18 March 2020 that the complaints policy should refer to the Authority and the Claims Management Ombudsman, and requested an updated complaints procedure.

31. The introducer agreements provided suggest AAC is operating a recommendation model<sup>2</sup>, and not a damages based agreement<sup>3</sup> model as previously stated by AAC during the telephone call on 18 March 2020. AAC has therefore provided inconsistent information on which model it is operating, suggesting that it is unaware itself.
32. On 26 June 2020 AAC provided a document entitled 'compliance monitoring programme'. However, the document is inadequate as it fails to explain how AAC monitors compliance with the rules and regulations that apply to it.
33. Whilst a number of documents had been provided by AAC on 23 and 26 June 2020, it had failed to provide a monthly profit and loss forecast, or opening and closing balance sheet. These documents had been requested on numerous occasions since 9 September 2019 by the Authority.
34. On 13 July 2020, the Authority telephoned AAC to discuss its concerns with the Application. The telephone call focussed on the Authority's concerns with the general solvency of AAC, and is detailed further at paragraph 51 below. The email sent to AAC the same day noted that:
- a. AAC had still failed to provide a monthly profit and loss forecast, and opening and closing balance sheets;
  - b. AAC had still failed to provide a compliance monitoring plan, and that the compliance procedures provided did not demonstrate how AAC will ensure it meets the applicable rules and regulations on an ongoing basis; and
  - c. AAC's complaints policy made no reference to the Financial Ombudsman Service/Claims Management Ombudsman.
35. The Authority asked AAC to provide by 16 July 2020 information to demonstrate it meets the threshold conditions.

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<sup>2</sup> In a recommendation model, a firm receives remuneration directly from the solicitor based on the rates quoted in each agreement per referral. Under these arrangements, no money passes from the customer to the firm, and no customer information passes from the firm to the solicitors. The firm provides the solicitor's details to the customer, who then chooses whether or not to contact them.

<sup>3</sup> An agreement between a client and a solicitor whereby the solicitor's fees are only payable in the event of a successful claim.

36. On 16 July 2020, AAC sent an email to the Authority, attaching three documents: a single page document entitled 'All Accident Claims Ltd – balance sheet as at 30 April 2020'; a compliance monitoring programme; and a complaints procedure.
37. The updated complaints procedure, in contrast to the one provided on 23 June 2020, now explains that customers can refer their complaint to the Claims Management Ombudsman if they are not satisfied with AAC's response. The Authority notes that the complaints procedure was amended by AAC only after the Authority pointed out the error to AAC by email dated 13 July 2020.
38. To date, AAC has not confirmed that it has call recording in place, as required by CMCOB 2.3.2R. The Authority requested this confirmation on 18 March 2020, and did not receive a response.
39. The Authority reminded AAC on 4 September 2020, that it has still not confirmed that it has call recording in place and that a monthly profit and loss forecast remained outstanding. As of the date of this Notice, no response has been received.
40. On 18 September 2020, the Authority asked AAC to provide Mr Asghar's skills gap analysis, and learning and development plan. This request was made as the Statement of Responsibilities form in relation to the director's SM&CR application and the associated Form A application did not contain supporting documents as required in section 6.03 of the Form A. Although some of the documents requested may not be relevant to AAC owing to its size and nature of business (for example, an organisation chart and induction programme), the Authority would expect some reference to the candidate's skills gap analysis and learning and development plan. Despite this, AAC had made no reference to how Mr Asghar has identified any gaps in knowledge, or to how Mr Asghar will improve his knowledge over time.
41. AAC failed to respond by the requested deadline of 24 September 2020. The Authority therefore telephoned and emailed AAC on 25 September 2020, confirming a revised deadline for AAC to respond by close of business on 28 September 2020.
42. AAC emailed the Authority on 28 September 2020, stating that it is unable to provide any further information. No explanation was provided for AAC's failure, or an indication that it would provide the requested information on a future date. Therefore, the information requested on 18 September 2020 remains outstanding.
43. Finally, some of the information contained in the Application is inconsistent with information provided elsewhere and/or the Authority's understanding of AAC's business

model. Whilst individually, the items listed below may be considered to be minor errors, they collectively indicate a lack of understanding and/or lack of care on behalf of AAC:

- a. The Application states that AAC does not deal with eligible complainants<sup>4</sup>. However, the Authority's understanding of AAC's business model is that it deals with consumers, and therefore does in fact deal with eligible complainants.
- b. The Application indicated that AAC does not meet the Location of Offices threshold condition (2B). However, it notes in the same section that "*we are limited company with one office in UK*".
- c. According to information filed with Companies House, Mr Waheed Asghar is the sole shareholder. The Application states that AAC has no controllers, while the some of the financial accounts indicate Mr Asghar is a joint equal shareholder with another individual.

### **Financial resources**

44. In relation to threshold condition 2D (Appropriate resources), the Authority has considered whether AAC satisfies the general solvency requirement in CMCOB 7.2.1R and is able to meet its debts as they fall due now, not at some date in the future.

45. The annual accounts provided by AAC on 15 January 2020 show that as at 30 April 2018, it had capital and reserves of minus £15,648, and for the year to 30 April 2018 it made a net loss of £2,266.

46. In the telephone call between the Authority and AAC on 18 March 2020, the Authority noted the following (which were confirmed by email later that day):

- a. AAC's latest accounts at 30 April 2019 filed with Companies House show capital and reserves of negative £16,682 (2018: negative £15,648).
- b. The same accounts also show AAC made a loss for the financial year ending 30 April 2019 of £1,034 (2018: loss of £2,266).
- c. Firms that want to hold permission for seeking out, referrals and identification of claims or potential claims, must demonstrate they can meet the general solvency requirement in CMCOB 7.2.1R.

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<sup>4</sup> A person eligible to have a complaint considered under the Financial Ombudsman Service, as defined in DISP 2.7.

47. AAC responded to the Authority's concerns by stating that the business had just moved into new premises.

48. Due to the concerns discussed with AAC, the Authority requested that AAC provide by 1 April 2020 an explanation of how, and by when, it intends to demonstrate that it meets its prudential requirements, as set out in CMC OB 7.2.1R. AAC's response was delayed due to the closure of its office. It subsequently provided further information when its office reopened:

- a. in a telephone call on 16 June 2020, AAC stated that it may still have an issue with solvency and that it had secured a loan from the Government (which the Authority understood to be in relation to Covid-19); and
- b. on 26 June 2020, AAC stated that its losses for 2019 were "*more than 50% less*" than for 2018, and that it intended to meet its liabilities as they fell due by reducing its fixed costs and overhead charges.

49. The accounts provided by AAC, cashflow, and email of 26 June 2020, do not contain information to satisfy the Authority that it meets the general solvency requirement in CMC OB 7.2.1R. Although the format of the accounts provided by AAC differs from the version filed with Companies House, both sets of accounts demonstrate that AAC:

- a. as at 30 April 2019, had negative capital and reserves of £16,682; and
- b. for the period to 30 April 2019, made a loss of £1,034.

50. The cashflow and email of 26 June 2020 do not alter the financial position set out in the accounts ending on 30 April 2019.

51. In the telephone call between the Authority and AAC on 13 July 2020<sup>5</sup>, the Authority stated that it remained concerned that AAC had not demonstrated that it satisfies the appropriate resources threshold condition, due to the deficit on the accounts. In response, AAC explained that it:

- a. had moved to a new office and bills had reduced as a result;

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<sup>5</sup> The Authority notes that it referred AAC to the prudential rules in CMC OB 7.3. However, as a lead generator, these rules do not apply to AAC and the Authority therefore informed AAC of this by email dated 18 September 2020. Nonetheless, AAC is still required to meet the general solvency requirement in CMC OB 7.2.1R and be able to meet its liabilities as they fall due in accordance with threshold condition 2D.

- b. had secured a loan of £40,000 from the Government, to be paid back over 6 years, with no interest or payments in the first year; and
- c. intended to invest the loan into the business, and increase income through advertising.

52. The Authority considers that the Government loan is unlikely to correct the deficit on the accounts because even though the loan improves the assets position (by adding £40,000 in cash), it would add an equal and corresponding amount in the liabilities. It would therefore not improve AAC's net balance sheet position.

53. In relation to financial documents provided by AAC on 16 July 2020, the Authority notes the following discrepancies, inconsistencies and unexplained information:

- a. The balance sheet as at 30 April 2020, contains a profit and loss figure under Capital and Reserves of £38,195. This gives AAC a capital and reserves total of £11,513. This compares to the balance sheet at 30 April 2019, which showed negative capital and reserves of £16,682.
- b. The balance sheet as at 30 April 2020 also contains a cash at bank and in hand figure of £23,450, compared to the previous year's cash at bank figure of £358 (an increase of £23,092). The trade debtors figure on the balance sheet at 30 April 2020 is £12,000, compared to the previous year, when the debtors figure was minus £3,698 (an increase of £15,698). The total increase in cash and debtors over the year is therefore £38,790. The information provided by AAC fails to explain these large changes.
- c. The balance sheet at 30 April 2020 contains several arithmetic errors. For example, the Net Current Assets/Liabilities, based on the numbers above it, is £19,838. The amount actually given on the balance sheet is £20,888, which is therefore overinflated by £1,050. Also, based on the numbers above it, the total Capital and Reserves is £21,513. The amount actually given on the balance sheet is £11,513, and is therefore £10,000 less than the total of the numbers above it. The errors on the balance sheet also mean that it does not balance, as the top half totals £11,513, and the bottom half totals £21,513.

54. In light of the errors on the balance sheet at 30 April 2020, and there being no apparent explanation for the large increase in profit, the Authority is not satisfied that AAC has demonstrated it has sufficient financial resources to meet the general solvency requirement in CMC OB 7.2.1R.

55. Due to the ongoing concerns with the financial information provided by AAC, the Authority telephoned AAC on 27 July 2020 to provide AAC with a final opportunity to respond to the concerns about its financial situation. The Authority confirmed the details of the telephone call in an email sent the same day to AAC. Matters discussed included the following:

- a. The Authority noted that the latest accounts for the year ending 30 April 2020 show a large swing to profitability compared to the previous year. AAC stated that this was as a result of it receiving the loan from the Government, without which it estimated the profits for the year to 30 April 2020 to be £8,000 to £9,000.
- b. The Authority noted arithmetical errors on the latest balance sheet. AAC agreed that there is a calculation error on the latest accounts.
- c. The Authority explained that it is concerned the information provided on the accounts is incorrect and that the information does not appear to have been checked by AAC before being provided.

56. The Authority requested that AAC provide information to substantiate AAC's large swing from losses to profitability by 30 July 2020. In relation to this request:

- a. The Authority contacted AAC by telephone on 30 July 2020 to ask whether it intended to respond by the deadline of that day. AAC stated that it was preparing updated profit figures and was hoping to send the information to the Authority by 3 August 2020. AAC failed to respond by 3 August 2020.
- b. On 19 August 2020, the Authority emailed AAC noting the lack of response and providing an extended deadline of 21 August 2020.
- c. On 21 August 2020 AAC responded by email, attaching a document entitled 'All Accident Claims Ltd – Annual Report & Accounts for the period 1 May 2020 to 31 July 2020'. Only one page of that document contains financial information, entitled 'profit and loss account for the period 1 May 2020 to 31 July 2020'. The document indicated AAC had made £17,500 turnover, and that after expenses AAC made a profit of £10,214 in the period 1 May to 31 July 2020.

57. The Authority notes that the figure given for income for three months from 1 May 2020 to 31 July 2020 (£17,500), would indicate that AAC is projected to earn £70,000 income for the full financial year to 30 April 2021. This compares to income of £56,381 for the

year to 30 April 2019, and income of £53,369 for the year to 30 April 2018. However, AAC has not provided any evidence or explanation to support the additional profit made during the 3-month period to 31 July 2020.

58. The Authority considers that the additional profit appears high compared to that for the two previous financial years, especially considering that AAC's office would have been closed for a number of weeks during that period due to Covid-19. In its email to AAC on 18 September 2020, the Authority asked AAC to confirm the approximate date its office reopened following its closure on 7 April 2020. AAC emailed the Authority on 28 September 2020, stating that it is unable to provide any further information. Therefore, as at the date of this Notice, the Authority remains unaware of when AAC's offices reopened following its closure on 7 April 2020.

59. As at the date of this Notice, AAC has failed to provide any information to substantiate the large swing in profits for the year to 30 April 2020, as requested by the Authority on 27 July 2020. AAC also confirmed on 28 September 2020 that it is unable to provide any further information. The Authority is therefore not satisfied that AAC meets the general solvency requirement in CMC0B 7.2.1R.

## **RELEVANT STATUTORY AND HANDBOOK PROVISIONS**

60. The statutory and regulatory provisions relevant to this Final Notice are referred to in Annex A.

## **IMPACT ON THE THRESHOLD CONDITIONS**

61. In light of the facts and matters set out above and for the reasons set out below, the Authority cannot ensure that if the Application were granted AAC will satisfy, and continue to satisfy, threshold conditions 2C (Effective supervision), 2D (Appropriate resources), 2E (Suitability) and 2F (Business model).

### **Threshold condition 2C: Effective supervision**

62. As regards threshold condition 2C, the Authority notes that a firm must be capable of being effectively supervised by the Authority having regard to all of the circumstances. As COND 2.3.3(1)G provides, in assessing this threshold condition, the Authority will take into consideration whether it is likely that the Authority will receive adequate information from AAC to enable it to determine whether AAC is complying with the requirements and standards under the regulatory system, and whether AAC is ready, willing and organised to comply with Principle 11.

63. The Authority does not consider that AAC satisfies, and will continue to satisfy, the effective supervision threshold condition in light of the concerns identified above in paragraphs 17 to 43 and 58 to 59.
64. The Authority is concerned that AAC has failed to provide documents that are fundamental and should be readily available within a reasonable timeframe. This demonstrates that it is unlikely that the Authority will receive adequate information from AAC (when requested) to enable the Authority to determine whether it is complying with the requirements and standards under the regulatory system. The Authority is also concerned that it has had to make repeated requests for the same documentation, over a period of almost one year, and on several occasions AAC has failed to respond by an agreed (and extended) deadline. The inability to provide basic information such as when AAC's office reopened this year is of concern to the Authority.
65. Further, AAC has provided inconsistent and incorrect information to the Authority, by way of example accounts which contain basic arithmetic errors. In order for the Authority to be able to effectively supervise a firm, it must be able to rely upon that firm to ensure that the information it provides is comprehensive and accurate.
66. The Authority is concerned that although the accounts filed at Companies House indicate that AAC does not meet the general solvency requirement, it has at no point notified the Authority of this, either during the application process, or since it became subject to Authority's rules on 1 April 2019. This information is something that the Authority would reasonably expect to be notified of by a claims management firm, given the general solvency requirement in CMCOB 7.2.1R.
67. Finally, AAC has failed to confirm that it can record telephone calls in accordance with the requirement in CMCOB 2.3.2R. Call recording is one of the ways in which the Authority is able to effectively supervise firms.
68. In the circumstances, the Authority does not consider that it can ensure that AAC satisfies, and would continue to satisfy, threshold condition 2C.

#### **Threshold condition 2D: Appropriate resources**

69. As regards threshold condition 2D, the Authority notes that a firm's resources must be appropriate in relation to the regulated activities conducted or proposed. As COND 2.4.2G(2) provides, 'appropriate resources' includes financial and non-financial resources such as human resources, effective means by which to manage risks, and any systems,

controls, plans or policies that AAC maintains. The Authority will interpret the term 'appropriate' as meaning sufficient in terms of quantity, quality and availability.

70. The Authority does not consider that AAC satisfies, and will continue to satisfy, the appropriate resources threshold condition in light of the concerns identified above in paragraphs 17 to 59. The Authority is concerned that:

- a. It cannot rely on the latest financial information provided by AAC in considering whether it meets the general solvency requirement in CMC0B 7.2.1R, and is able to meet its debts as they fall due, given that the information contains unsubstantiated profits and basic arithmetic errors, and no information has been provided to substantiate the profits.
- b. AAC has failed to provide either adequate or any responses to a number of requests, giving rise to the concern that it has not demonstrated that it has adequate human resources who are sufficiently competent.
- c. The documents filed with Companies House demonstrate that AAC's capital and reserves are negative, and that it is not able to meet its debts as they fall due.

71. In the circumstances, the Authority does not consider that it can ensure that AAC satisfies, and would continue to satisfy, threshold condition 2D.

### **Threshold condition 2E: Suitability**

72. Threshold condition 2E requires that, inter alia, a firm must be fit and proper having regard to all of the circumstances, including the need to ensure that its affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system.

73. The matters referred to in paragraphs 17 to 43 and 58 to 59 above also raise concerns as to the suitability of AAC. In particular, the Authority considers that the fact that AAC has failed to provide documentation required to assess the Application, either in a timely manner, or to the standard required, and submitted an application containing a number of errors, means that the Authority cannot be satisfied that:

- a. AAC is able to adequately comply with requests made by the Authority relating to the provision of information;
- b. AAC's business is being, or will be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner;

- c. those who manage AAC's affairs have adequate skills and experience and act with probity; and
- d. AAC is ready, willing and organised to comply with the requirements and standards under the regulatory system.

74. In the circumstances, the Authority does not consider that it can ensure that AAC satisfies, and would continue to satisfy, threshold condition 2E.

### **Threshold condition 2F: Business model**

75. Threshold condition 2F requires that a firm's business model must be suitable in relation to the regulated activities conducted or proposed. As COND 2.7.8G provides, a firm's viability and the longer-term profitability of the business are relevant to the consideration of this threshold condition.

76. The Authority does not consider that AAC satisfies, and will continue to satisfy, the business model threshold condition in light of the concerns identified above in paragraphs 44 to 59.

77. The Authority is concerned that AAC has been loss-making for at least the past two financial years and has not provided any credible plans for a return to profit.

78. In the circumstances, the Authority does not consider that it can ensure that AAC satisfies, and would continue to satisfy, threshold condition 2F.

### **Conclusion**

79. On the basis of the facts and matters described above, the Authority has concluded that AAC will not satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which AAC would have permission if the application was granted.

### **IMPORTANT NOTICES**

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

### **Publication**

81. 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 AAC or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

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

**Authority contacts**

83. For more information concerning this matter generally, contact Mike Baker, Manager, Claims Management Companies Department at the Authority (direct line: 020 7066 1026 / email: [mike.baker@fca.org.uk](mailto:mike.baker@fca.org.uk)).

**Hilary Bourne**  
**On behalf of the Regulatory Transactions Committee**

## **ANNEX A – RELEVANT STATUTORY AND HANDBOOK PROVISIONS**

### **RELEVANT STATUTORY PROVISIONS**

1. Section 55B(3) of the Act states that in giving permission, the Authority must ensure that the person concerned will satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which it will have permission.
2. The threshold conditions that relate to the current application are set out in Part 1B of schedule 6 of the Act.

### **RELEVANT HANDBOOK PROVISIONS**

#### **Threshold Conditions**

##### *Guidance on COND*

3. This section of the Authority's Handbook sets out the minimum standards for becoming and remaining authorised.
4. 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.
5. 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.
6. COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the Authority's threshold conditions, the Authority will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.
7. COND 1.3.3CG provides that, when assessing the Authority's threshold conditions, the Authority may have regard to any person appearing to be, or likely to be, in a relevant relationship with the firm, in accordance with section 55R of the Act (Persons connected with an applicant). For example, a firm's controllers, its directors or partners, other persons with close links to the firm (see COND 2.3), and other persons that exert influence on the firm which might pose a risk to the firm's satisfaction of the Authority's threshold conditions, would be in a relevant relationship with the firm.

*Threshold condition 2C: Effective supervision*

8. COND 2.3.1A(1) states that a firm must be capable of being effectively supervised by the Authority having regard to all the circumstances including the way in which the firm's business is organised.
9. COND 2.3.3G states that, when the Authority is assessing threshold condition 2C, 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, and those persons with whom the firm has close links, to enable it to determine whether the firm 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*

10. 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.
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 threshold condition 2D.
12. COND 2.4.2G(4) states that detailed financial resources requirements are in the relevant section of the Prudential Standards part of the Authority's Handbook, including specific provisions for particular types of regulated activity. The Authority will consider whether firms (other than firms carrying on, or seeking to carry on, PRA-regulated activities) are ready, willing and organised to comply with these requirements when assessing if they have appropriate financial resources for the purposes of threshold condition 2D.
13. COND 2.4.4G states that, when assessing whether a firm has appropriate resources, the Authority will have regard to matters including (in relation to a firm other than a firm carrying on, or seeking to carry on, a PRA-regulated activity), whether there are any

indications that the firm may have difficulties if the application is granted, at the time of the grant or in the future, in complying with any of the Authority's prudential rules.

*Threshold condition 2E: Suitability*

14. COND 2.5.1A(1) states that an applicant firm must be a fit and proper person having regard to all the circumstances, including:

(1) whether a firm has complied and is complying with requirements imposed by the Authority in the exercise of its functions, or requests made by the Authority, relating to the provision of information to the Authority and, where a firm has so complied or is so complying, the manner of that compliance; and

(2) whether a firm's business is being, or is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner.

15. COND 2.5.3G(1) states that the emphasis of threshold condition 2E is on the suitability of the firm itself. The suitability of each person who performs a controlled function will be assessed by the Authority and/or the PRA, as appropriate, under the approved persons regime (see SUP 10A (Approved persons), SUP 10C (FCA senior managers regime) and FIT). In certain circumstances, however, the Authority may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.

16. COND 2.5.4G(2) 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:

(1) conducts, or will conduct, its business with integrity and in compliance with proper standards;

(2) has, or will have, a competent and prudent management; and

(3) can demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.

17. 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:

(1) 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;

- (2) the firm has made arrangements to put in place an adequate system of internal control to comply with the requirements and standards for which the Authority is responsible under the regulatory system; and
- (3) the governing body of the firm is made up of individuals with an appropriate range of skills and experience to understand, operate and manage the firm's regulated activities.

*Threshold condition 2F: Business model*

18. COND 2.7.1UK states that:

- (1) A's business model (that is, A's strategy for doing business) must be suitable for a person carrying on the regulated activities that A carries on or seeks to carry on; and
- (2) The matters which are relevant in determining whether A satisfies the condition in sub-paragraph (1) include:
  - i. whether the business model is compatible with A's affairs being conducted, and continuing to be conducted, in a sound and prudent manner;
  - ii. the interests of consumers; and
  - iii. the integrity of the UK financial system.

19. COND 2.7.8G states that, in deciding how they will satisfy and continue to satisfy threshold condition 2F, firms should consider matters including (but not limited to) the following:

- (1) the assumptions underlying the firm's business model and justification for it; and
- (2) the rationale for the business the firm proposes to do or continues to do, its competitive advantage, viability and the longer-term profitability of the business.

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20. CMC OB 2.3.2R states that a firm that conducts regulated claims management activity must record all telephone calls and retain all other relevant communications.

21. The general solvency requirement in CMC OB 7.2.1R states that a firm must ensure that it is able at all times to meet its liabilities as they fall due.

### **Supervision SUP 15.3 General notification requirements**

22. SUP 15.3.1R states that a firm must notify the Authority immediately it becomes aware, or has information which reasonably suggests, that it has failed to satisfy one or more of the threshold conditions, may have failed to satisfy one or more of the threshold conditions, or may in the foreseeable future fail to satisfy one or more of the threshold conditions.