
FINAL NOTICE

**Black and White Accident Management
Limited**

**87-89 Burdett Road
London
E3 4JN**

06 July 2021

ACTION

1. By an application dated 31 July 2019 ("the Application"), Black and White Accident Management Limited ("BWAM") applied under section 55A of the Financial Services and Markets Act 2000 ("the Act") for Part 4A permission to carry on the regulated activities of:
 - a. Advice, investigation or representation in relation to a personal 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 12 March 2021 (“the Warning Notice”) the Authority gave notice that it proposed to refuse the Application and that BWAM was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from BWAM 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 29 April 2021 (“the Decision Notice”), the Authority gave BWAM notice that it had decided to take the action described above.
7. BWAM 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 BWAM a Final Notice of its refusal.
9. BWAM has failed to respond to six separate requests for the provision of information considered by the Authority to be necessary to enable it to determine the Application. The last three requests were made over a 4-week period, and the last request included a statement that BWAM must contact the Authority, or the Authority would recommend to the Authority’s Regulatory Transactions Committee (“RTC”) that it give BWAM a Warning Notice proposing to refuse the Application.
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 met. Having reviewed that information, the Authority cannot ensure that BWAM satisfies, and will continue to satisfy, the threshold conditions for which the authority is responsible in relation to all the regulated activities for which BWAM would have permission.
11. 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 has raised concerns that BWAM would fail to do so if the Application were to be granted.
12. In particular, the Authority cannot ensure that BWAM:
 - a. can be effectively supervised by the Authority, as required by threshold condition 2C;
 - b. has appropriate human resources, given BWAM’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.

DEFINITIONS

13. The definitions below are used in this Final Notice.

“the Act” means the Financial Services and Markets Act 2000;

“the Application” means the application dated 30 July 2019 referred to in paragraph 1 above;

“the Authority” means the Financial Conduct Authority;

“the outstanding information” means the information referred to in paragraph 18 below;

“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 25 August 2020 given to BWAM by the Authority.

FACTS AND MATTERS

14. The Application was received by the Authority on 31 July 2019.

15. Further information was requested from BWAM under section 55U(5) of the Act.

16. On 14 October 2020, the Authority called BWAM to discuss the Application.

17. On 15 October 2020, the Authority sent an email to BWAM requesting the following information by 26 October 2020:

- a. A detailed breakdown of BWAM’s business plan and how it supports the permissions BWAM had applied for;
- b. A brief explanation of the customer journey and how BWAM ensures they comply with the requirements of LASPO (The legal Aid, Sentencing and Punishment of Offenders Act 2012); and
- c. Confirmation as to whether the answers provided in BWAM’s fitness and propriety form (individual form) were correct.

18. On 28 October 2020, the Authority sent an email to BWAM requesting a response to the Authority’s information request sent on 15 October 2020.

19. On 28 October 2020, BWAM sent an email to the Authority stating they had not received the email sent to them on 15 October 2020. BWAM advised that they would respond to this email on 29 October 2020.
20. On 6 November 2020, the Authority sent an email to BWAM noting that BWAM had still not responded to the Authority's information request sent on 15 October 2020. The Authority requested the information by 20 November 2020 and stated that if BWAM continued to fail to provide the information that it would recommend to the RTC that BWAM be issued with a Warning Notice.
21. On 11 November 2020, BWAM sent an email to the Authority apologising that they had not responded to the Authority's information request. BWAM stated this was because they were having to make infrastructural changes in light of the Government's Covid-19 guidelines. BWAM reassured the Authority that they would respond by the deadline date of 20 November 2020.
22. On 23 November 2020, the Authority sent a further email to BWAM as they had not responded to the Authority's email sent on 6 November 2020. The Authority requested BWAM to respond by 27 November 2020.
23. On 4 December 2020, the Authority sent a letter to BWAM via recorded delivery and by email. The email and letter noted BWAM's lack of response to the Authority's request for information dated 15 October 2020 and requested that BWAM provided the outstanding information in support of the Application within 10 business days. The Authority informed BWAM that if they continued to fail to provide the information, the Authority would recommend to the RTC that it issues BWAM a Warning Notice proposing to refuse the Application. The letter was signed for on 8 December 2020.
24. On 23 December 2020, the Authority attempted to contact BWAM by telephone. The Authority was unable to get through to BWAM on two telephone numbers listed in the Application, including the director's mobile number.
25. On 4 January 2021, the Authority attempted to call BWAM again using the director's mobile number. The call was unanswered and the Authority was unable to leave a voicemail.

IMPACT ON THRESHOLD CONDITIONS

26. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
27. BWAM has failed to respond to six 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 BWAM a two-week period to respond, and included a statement to the effect that BWAM must contact the Authority, or the Authority would recommend to the RTC that BWAM receives a Warning Notice.
28. 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 BWAM satisfies, and will continue to satisfy, the threshold conditions.
29. 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 has raised concerns that BWAM would fail to do so if the Application were to be granted.

30. The failure to provide the information has raised concerns as to whether BWAM:
- a. can be effectively supervised by the Authority, as required by threshold condition 2C;
 - b. has appropriate human resources, given BWAM'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

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

Publication

32. 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.

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

Authority contacts

34. For more information concerning this matter generally, contact Greg Williams, Manager, CMC Transition Team at the Authority (direct line: 020 7066 1475 / email: Greg.williams@fca.org.uk).

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’s 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 FCA 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)(c) 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.