
FINAL NOTICE

**Buttercup Finance Ltd
61 Bridge Street
Kington
HR5 3DJ**

Dear Mr Williams

ACTION

1. By an application dated 24 September 2020, Buttercup Finance Ltd ("Buttercup") applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of:
 - a) Agreeing to carry on a regulated activity
 - b) Limited permission credit broking.
2. The Application is incomplete.
3. For the reasons listed below, the Authority has refused the Application.

SUMMARY OF REASONS

4. Buttercup has failed to respond to 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 Buttercup must contact the Authority within 10 business days, or the Authority would issue Buttercup with a Warning Notice. No response was received.
5. By its Warning Notice dated 07 October 2021 the Authority gave notice that it proposed to refuse the Application and that Buttercup was entitled to make representations to the Authority about that proposed action.
6. As no representations have been received by the Authority from Buttercup 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.

7. By its Decision Notice dated 19 November 2021 ("The Decision Notice"), the Authority gave Buttercup notice that it had decided to take the action described above.
8. Buttercup 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.
9. 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 Buttercup Final Notice of its refusal.
10. The Authority decided to refuse the Application and to give this Final notice as Buttercup has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that Buttercup will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act, specifically:
 - a) That the firm can be effectively supervised by the Authority as required by threshold condition 2C;
 - b) That the firm has appropriate human resources, given Buttercup's failure to provide the Authority with the requested information as required by threshold condition 2D; and
 - c) That the firm will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E.

DEFINITIONS

11. 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]/[2] 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.

"the Warning Notice" means the warning notice dated 07 October 2021 given to the applicant by the Authority.

"Buttercup" means Buttercup Finance Ltd

FACTS AND MATTERS

12. The Application was received by the Authority on 24 September 2020.

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

14. On 5 July 2021, the Authority asked Buttercup to consider withdrawing its application for limited permission consumer credit permissions. This request was made because Buttercup appeared to be a primary credit broker, and therefore required full permission consumer credit permissions. The Authority cannot do this for the applicant.

15. Buttercup failed to provide a response by the deadline of 12 July 2021.
16. Between 21 July 2021 and 3 August 2021, the Authority attempted to contact Buttercup by telephone on 4 separate occasions. No contact was made in respect of any of these attempts.
17. On 11 August 2021 and 13 September 2021, the Authority sent a letter to Buttercup by email and by recorded delivery, noting the lack of a response to its requests for the information and informing it that a failure to provide the information would result in the Application being determined based upon the information received to date, and that this might result in the Authority issuing Buttercup with a Warning Notice proposing to refuse the Application. Buttercup failed to respond by the stated deadlines of 27 August 2021 and 27 September 2021 respectively.
18. On 07 October 2021 a Warning Notice was issued by the Authority advising Buttercup that it proposed to refuse the Application and that Buttercup was entitled to make representations to the Authority about that proposed action.
19. As no representations have been received by the Authority from Buttercup 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.

IMPACT ON THE THRESHOLD CONDITIONS

20. Buttercup has failed to respond to 8 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 Buttercup 10 business days to respond and included a statement to the effect that Buttercup must contact the Authority, or the Authority would issue Buttercup with a Warning Notice. As no response was received to that final request a warning notice was issued.
21. The Authority must therefore determine 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 Buttercup satisfies, and will continue to satisfy, the threshold conditions.
22. 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 Buttercup would fail to do so if the Application were to be granted.
23. The failure to provide the information raises concerns as to whether Buttercup:
 - a. can be effectively supervised by the Authority as required by threshold condition 2C;
 - b. has appropriate human resources, given Buttercup'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.

PROCEDURAL MATTERS

Important Notices

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

Publication

25. 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.

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

Authority contacts

For more information concerning this matter generally, contact Alexander MacDermott, Authorisations at the Authority (direct line: 020 7066 0264 / email: alexander.macdermott@fca.org.uk).

Alex MacDermott
Executive Decision Maker

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

Threshold Conditions – COND

Threshold Condition 2C: Effective Supervision

1. 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

2. 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.
3. COND 2.4.2G(2A) provides that, 'non-financial resources' of the firm include human resources it has available.

4. 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

5. 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.
6. COND 2.5.4G(2)(c)G 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.
7. 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.