
FINAL NOTICE

Capital Investments Ltd

18 December 2021

Dear Capital Investments Ltd

ACTION

1. By a variation of permission application dated 25 May 2021 ("the Application"), Capital Investments Ltd ("CIL" or "the Applicant") applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of:
 - a. Seeking out, referrals and identification of claims or potential claims (personal injury claim; financial services or financial product claim; housing disrepair claim; claim for a specified benefit; criminal injury claim; employment related claim)
 - b. Advice, investigation or representation in relation to a financial services or financial product 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, the Authority gave notice that it proposed to refuse the application and that CIS was entitled to make representations to the Authority about that proposed action.
5. 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 CIL would fail to do so if the Application were to be granted.
6. The failure to provide the information raises concerns as to whether CIL:
 - a. can be effectively supervised by the Authority as required by threshold condition 2C;

- b. has appropriate human resources, given CIL'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

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

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

"the Tribunal" means the Upper Tribunal (Tax & Chancery Chamber).

FACTS AND MATTERS

8. The Application was received by the Authority on 25 May 2021.

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

10. The Authority requested the following information in support of the Application:

- a. 9 September 2021 an introductory email sent from the Authority to the firm, to confirm receipt of application and confirm assigned case officer. No response was required.
- b. 24 September 2021 the Authority sent an initial Review of the incomplete application with a deadline for return by 5pm Friday 8 October 2021. The following information was requested:
 - i. The customer journey.
 - ii. Description of how operational sectors and permissions applied for will all function alongside each other.
 - iii. Explanation of the balance of caseload and timeframes.
 - iv. Staff structure and descriptions of roles and experience.

- v. Confirmation of unregulated services.
- vi. Projected income splits.
- vii. Pre-contractual summary sheet that complies with CMCOB 4.2 and considers the requirements of 4.3.
- viii. Customer contract that complies with CMCOB 6.
- ix. Staff training and development plan.
- x. Prudential calculations that demonstrate compliance with CMCOB 7.2.7 also including the overhead requirement calculations at 7.2.8 and eligible capital at 7.3.
- xi. Financial Information including an opening balance sheet, forecast closing balance sheet, monthly profit and loss for 12 months plus monthly cash flow forecast for 12 months.
- xii. Any approval of unregulated third-party financial promotions intended?

c.12 October 2021 the Authority made a call to the firm, to the registered phone number, with automated message that the number is no longer registered.

d. 12 October 2021 email from the Authority to the firm, to highlight that the request had not been responded to by the deadline of Friday 8 October 2021. The outstanding information was requested to be supplied to the Authority, no later than 14 October 2021. Confirmation of an updated phone number was also requested so the business can meet its existing Threshold Conditions of being contactable.

e. 19 October 2021 the Authority contacted the registered phone number again, which still contained the automated message that it was no longer registered.

f.22 October 2021, the Authority sent a further request for the missing information. This letter included a statement to the effect that CIL must contact the Authority within 10 business days, or the Authority would issue CIL with a Warning Notice.

g. 2 November 2021 the Director called the Authority from a mobile phone number to highlight his business accounts had been locked out, but he would respond to the initial review information request later the same day. The overall deadline of 5 November 2021 was reiterated and followed up by email. It was highlighted to the Director that the Non-Responder Process could not be lifted without receipt of the submission.

h. 3 November 2021 the Authority missed a call from the same mobile number and rang it back. There was no facility to leave a voicemail so the Authority sent an email at 15:38 highlighting availability for a call that day and the next, or that the Director could email if preferred. No response was made.

- i. 9 November 2021 the Authority sent an email to the firm's registered address to highlight the missed deadline for the outstanding initial review response, and to reiterate that the Non-Responder Process can only be lifted where the outstanding submission has been made. The Authority gave opportunity to provide an explanation as to why no further response had been made since the discussion. The Authority set the deadline for a response update, the same day.
- j. 11 November 2021 the Authority tried to call the Director on the mobile number. No answer and no voicemail facility available. The Authority sent confirmation by email that the Non-Responder Process would continue, as no formal submission of the requested information has been made.

11. The missing information has not been provided.

IMPACT ON THRESHOLD CONDITIONS

- 12. CIL has failed to respond to 6 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 CIL 10 business days to respond and included a statement to the effect that CIL must contact the Authority, or the Authority would issue CIL with a Warning Notice. The Authority has issued a Warning Notice.
- 13. 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.
- 14. On the basis of the facts and matters described above, the Authority cannot ensure that CIL satisfies, and will continue to satisfy, the threshold conditions in relation to all of the regulated activities for which CIL would have permission, if the application were granted and accordingly has decided to refuse the application.
- 15. 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 CIL would fail to do so if the Application were to be granted.
- 16. The failure to provide the information raises concerns as to whether CIL:
 - a. can be effectively supervised by the Authority as required by threshold condition 2C;
 - b. has appropriate human resources, given CIL'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

17. This Final Notice is given under section 390 of the Act

Publication

18. 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.

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

Authority contacts

20. For more information concerning this matter generally, contact Alex MacDermott, Technical Specialist, Credit & Lending Department 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 DECISION 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’s Handbook, including the part entitled 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)(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.

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.