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## **FINAL NOTICE**

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**Egcars  
Priory House,  
Farringdon Road,  
Lechlade,  
United Kingdom,  
GL7 3EY**

29 March 2019

### **ACTION**

1. By way of an application dated 24 August 2018, Egcars applied for Part 4A permission to carry on the regulated activities of credit broking limited to secondary broking pursuant to section 55A of the Financial Services and Markets Act 2000.
2. The application is complete pursuant to section 55V of the Act.
3. For the reasons listed below, the Authority refused the Application.

### **SUMMARY OF REASONS**

4. By its Warning Notice dated 25 January 2019 the Authority gave notice that it proposed to refuse the Application and that Egcars was entitled to make representations to the Authority about that proposed action.
5. No representations were received by the Authority from Egcars within the time period outlined in the Warning Notice. Therefore, 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. Egcars had 28 days from the date the Decision notice was given to refer the matter to the Upper Tribunal. No referral was made to the Upper Tribunal within this period of time or to date.
7. 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 Egcars Final Notice of its refusal.
8. The Authority decided to refuse the Application and to give this Final Notice as Egcars has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that Egcars will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.

## **DEFINITIONS**

9. 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.

“COND” means the Principles for Business section of the FCA Handbook.

“the RTC” means the Authority’s Regulatory Transactions Committee.

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

“SYSC” means the Senior Management Arrangements, Systems and Controls chapter of the Authority’s handbook.

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

“the Warning Notice” means the warning notice dated 25 January 2019 given to Egcars by the Authority.

“the Decision Notice” means the decision notice dated 20 February 2019 given to Egcars by the Authority.

## **FACTS AND MATTERS**

### ***The Application***

10. The Application was received by the Authority on 24 August 2018.
11. The Application was made under section 55A of the Act for permission under Part 4A of the Act for permission to carry on the regulated activities of credit broking limited to secondary broking.
12. On 19 September 2018, the Authority department emailed Egcars using the contact details in the Application to provide an update on their application.

13. On 24 September 2018, the Authority contacted the Firm by email to request that the firm provide the following information in support of the Application by 28 September 2018:
  - a) Confirmation of the firm name, as the firm had applied with the name "Egcars" however the firm is registered on Companies House as "Egcars Ltd", and
  - b) Confirmation of the firm's activities/permissions required, namely whether the business involved advising on and/or offering part exchange on goods with outstanding finance, as this would require the additional regulated activities "limited permission debt adjusting" and "limited permission debt counselling".
14. On 1 October 2018, an email was sent to Egcars outlining that the Authority had made multiple attempts to contact the firm by telephone and left voice messages. The email stated that this was a second request for the information to be provided by 4 October 2018.
15. On 5 October 2018, the Authority emailed Egcars stating they had not received a response to previous requests for the information and requested the same information to be provided by 19 October 2018.
16. On 19 October 2018, the Authority wrote to Egcars by email and letter to its principal place of business, using the contact details provided within the Application. The letter noted the lack of a response to previous correspondence and informed Egcars that a failure to provide the information would result in the Application being determined based upon the information received to date and that this would result in a recommendation to the RTC that it give Egcars a Warning Notice proposing to refuse the Application. The deadline given to respond was 5 November 2018.
17. On 22 October 2018, the Authority received the letter returned as "Refused" on 20 October 2018.
18. On 5 November 2018, the Authority wrote to Egcars by email and letter to its principal place of business, using the contact details provided within the Application. The letter noted the lack of a response to its previous correspondence and reiterated that a failure to provide the information would result in the Application being determined based upon the information received to date and that this would result in a recommendation to the RTC that it give Egcars a Warning Notice proposing to refuse the Application. The deadline given to respond was 20 November 2018.
19. On 8 November 2018, the Authority received the letter returned as "Addressee gone away" date stamped 6 November 2018.
20. On 30 November 2018, the Authority wrote to Egcars by email and letter to its principal place of business, using the contact details provided within the Application. The deadline to respond to this letter was 7 December 2018.

21. On 7 December 2018, the Authority checked the Royal Mail tracking website and the letter was recorded as "Return to Sender."

### **IMPACT ON THRESHOLD CONDITIONS**

22. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
23. During the course of the Application, the Firm has not provided information requested by the Authority which the Authority considers necessary for the purposes of determining the Application, and has not demonstrated the level of co-operation that is expected of a regulated firm.
24. Egcars has failed to respond to six separate requests for the same information. These requests were made over a ten-week period. The final three requests included a statement to the effect that the recipient must contact the Authority or face a Warning Notice. The Firm has failed to respond to all requests.
25. 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.
26. Having reviewed that information, the Authority cannot ensure that Egcars satisfies, and will continue to satisfy, in relation to the regulated activities for which permission is sought, the threshold conditions.
27. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and co-operative way. The failure to provide the requested information raises concerns that the Firm would not do so if the Application were to be granted.
28. The failure to provide the information and the failure to engage with the Authority means the Authority cannot be satisfied that Egcars:
- i. can be effectively supervised by the Authority as required by threshold condition 2C;
  - ii. has appropriate human resources as required by threshold condition 2D; and
  - iii. will conduct its business in compliance with proper standards as required by threshold condition 2E.

### ***The effective supervision threshold condition (paragraph 2C of Schedule 6 to the Act)***

29. The effective supervision threshold condition requires that a firm must be capable of being effectively supervised by the Authority having regard to all the circumstances.
30. When assessing whether a firm can be effectively supervised, the Authority considers the likelihood that it will receive adequate information from the firm, in a timely manner, 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. This includes consideration of whether the firm is ready, willing and organised to comply with Principle 11 and the rules in SUP on the provision of information to the Authority.

31. In light of the matters set out in paragraphs 14 to 23 above, the Authority cannot be satisfied that the firm is capable of being effectively supervised by the Authority and, therefore, cannot ensure that the Firm satisfies and continues to satisfy the effective supervision threshold condition. In particular, the Authority is not satisfied that the Firm will respond fully and promptly to requests for information from the Authority.

***The appropriate resource threshold condition (paragraph 2D of Schedule 6 to the Act)***

32. The appropriate resource threshold condition requires that a firm's resources must be appropriate in relation to the regulated activities conducted or proposed. COND 2.4.2G(2) provides that 'resources' includes financial and non-financial resources (such as human resource), and means of managing its resources (such as effective means by which to manage risks). In this context, the Authority will interpret 'appropriate' as meaning sufficient in terms of quantity, quality and availability. Consideration will be given to whether a firm's resources are sufficient to enable it to comply with the requirements imposed or likely to be imposed on it in the course of the exercise of the Authority's functions.

33. As outlined at paragraphs 12 to 21 above, the Firm has never responded to any of multiple requests for information from the Authority. Accordingly, the Authority is not satisfied that the Firm has appropriate resources in relation to the proposed regulated activities.

***The suitability threshold condition (paragraph 2E of Schedule 6 to the Act)***

34. The suitability threshold condition requires that, amongst other things, a firm must be fit and proper having regard to all the circumstances, including whether it has complied and is complying with requirements imposed by the Authority in the exercise of its functions, or request made by the Authority relating to the provision of information to the Authority and, where it has so complied or is so complying, the manner of that compliance.

35. The matters described in paragraphs 12 to 21 above raise concerns as to the suitability of the Firm. In particular, the Firm has never responded to attempts to contact or request information by the Authority.

36. The Authority is not satisfied that the Firm is fit and proper having regard to all the circumstances, including the need to ensure that its affairs are conducted in an appropriate manner. Accordingly, the Authority does not consider that it can ensure that the Firm satisfies, and will continue to satisfy, the suitability threshold condition.

37. In view of the above, the Authority cannot ensure that Egcars satisfies, and will continue to satisfy the threshold conditions relating to the activities for which Egcars will have permission.

**IMPORTANT NOTICES**

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

## **Publication**

39. 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.
40. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

## **Authority contacts**

41. For more information concerning this matter generally, contact *Richard Atkinson*, Manager, *Lending and Intermediaries* at the Authority (direct line: 020 7066 5161 / email: [Richard.Atkinson@fca.org.uk](mailto:Richard.Atkinson@fca.org.uk)).

**Mike Wells CBE**  
**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**

1. 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 titled Threshold Conditions (“COND”). The main considerations in relation to the action specified are set out below.
2. 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.
3. 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.
4. 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.
5. 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.

#### Threshold Condition 2C: Effective Supervision

6. 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

7. 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.
8. 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

9. 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.
10. 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.
11. 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 (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.