
FINAL NOTICE

To: **Express Vehicles Limited**

Address: **425 Tyburn Road, West Midlands, B24 8HJ**

FRN: **728939**

Dated: **5 August 2021**

ACTION

1. For the reasons set out below and pursuant to section 55J of the Act, the Authority has decided to cancel EVL's Part 4A permission.
2. EVL has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to it.
3. Accordingly, the Authority has today cancelled EVL's Part 4A permission.

DEFINITIONS

4. The definitions below are used in this Final Notice (and in the Annex):

"the Act" means the Financial Services and Markets Act 2000;

"the appropriate resources Threshold Condition" means the threshold condition set out in paragraph 2D of Schedule 6 of the Act;

"the Authority" means the Financial Conduct Authority;

“COND” means the Threshold Conditions part of the Handbook;

“the Decision Notice” means the decision notice given to EVL dated 23 June 2021;

“DEPP” means the Authority’s Decision Procedure and Penalties manual;

“EG” means the Enforcement Guide;

“EVL” Means Express Vehicles Limited;

“EVL’s Part 4A permission” means the permission granted by the Authority to EVL under the Act;

“Form A” means the application to perform controlled functions including senior management functions;

“Form C” means the notice of ceasing to perform controlled functions including senior management functions;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“the Principles” means the Authority’s Principles for Businesses;

“the RDC” means the Authority’s Regulatory Decisions Committee;

“the suitability Threshold Condition” means the threshold condition set out in paragraph 2E of Schedule 6 to the Act;

“the Threshold Conditions” means the threshold conditions set out in Schedule 6 to the Act; and

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

RELEVAN STATUTORY PROVISIONS

5. The statutory and regulatory provisions relevant to this Notice are set out in the Annex.

SUMMARY OF THE REASONS

6. The Authority has concluded, on the basis of the facts and matters set out below, that EVL is failing to satisfy the Threshold Conditions, in that the Authority is not satisfied that EVL is a fit and proper person having regard to all the circumstances. Specifically, EVL had failed to be open and co-operative in all its dealings with the Authority and failed to disclose to the Authority appropriately anything relating to EVL of which the Authority would reasonably expect notice. As a result, the Authority is not satisfied that EVL’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.
7. The Authority has also concluded that EVL is failing to satisfy the appropriate resources Threshold Condition, in that the Authority is not satisfied that EVL has appropriate non-

financial resources in relation to the regulated activities that it carries on or seeks to carry on. Specifically, EVL has failed to seek approval from the Authority to appoint an appropriate individual to perform the relevant senior management functions following its sole approved person apparently ceasing to have any involvement in EVL.

FACTS AND MATTERS

8. EVL was authorised by the Authority on 19 April 2016 to conduct credit broking activities.
9. On 15 September 2020, EVL's sole approved person resigned as a director of EVL, following the sale of EVL to a third party. As a result, it appears EVL's sole approved person has ceased to have any involvement with EVL, and there are no other individuals at EVL approved to perform the senior management functions relevant to the regulated activities that EVL carries on or seeks to carry on.
10. EVL has failed to co-operate with the Authority in that it has failed to respond adequately to the Authority's repeated requests that EVL completes and submits a Form A, to seek approval to appoint an appropriate individual to perform the senior management functions relevant to the regulated activities that EVL carries on or seeks to carry on, and a Form C, to withdraw the approvals of its previous approved person.
11. Through the Warning Notice, the Authority gave notice that it proposed to take the action described above and EVL was given the opportunity to make representations to the Authority about that proposed action.
12. No representations having been received by the Authority from EVL within the time allowed by the Warning Notice, the default procedures in DEPP 2.3.2G of the Authority's Decision Procedure and Penalties manual permit the allegations/matters described in the Warning Notice, and repeated in this Decision Notice, to be regarded as undisputed.
13. The Authority has therefore decided to cancel EVL's Part 4A permission for the reasons described above.

FAILINGS

14. The statutory and regulatory provisions relevant to this Final Notice are set out in the Annex.
15. From the facts and matters described above the Authority, having regard to its operational objectives, considers that:
 - a. by failing to respond to the Authority's repeated requests relating to submission of a Form A and a Form C, EVL is failing to comply with Principle 11 in that EVL has failed to deal with the Authority in an open and co-operative way and to disclose to the Authority appropriately anything relating to EVL of which the Authority would reasonably expect notice. EVL is therefore not a fit and proper person having regard to all the circumstances because it has failed to satisfy the Authority that its 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 and EVL is therefore failing to satisfy the suitability Threshold Condition; and

- b. by failing to seek approval from the Authority to appoint an appropriate individual to perform the relevant senior management functions following its sole approved person apparently ceasing to have any involvement in EVL, EVL's non-financial resources are not sufficient to enable EVL to comply with requirements imposed or likely to be imposed on it by the Authority. Therefore, EVL non-financial resources are not appropriate in relation to regulated activities that it carries on or seeks to carry on and it is failing to satisfy the appropriate resources Threshold Condition.

16. Accordingly, EVL's Part 4A permission are now cancelled.

PROCEDURAL MATTERS

17. This Final Notice is given to EVL in accordance with section 390(1) of the Act.

18. The following paragraphs are important.

Decision maker

19. This decision which gave rise to the obligation to give this Final Notice was made by the RDC.

Publicity

20. The Authority must publish such information about which this Final 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 information would, in the opinion of the Authority, be unfair to EVL or prejudicial to the interests of consumers.

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

Contact

22. For more information concerning this matter generally, EVL should contact Allen Kontos at the Authority (direct line: 020 7066 1634)

Martha Stokes
Enforcement and Market Oversight Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives established in section 1B of the Act include protecting and enhancing the integrity of the UK financial system and securing an appropriate degree of protection for consumers.
2. The Authority is authorised by section 55J of the Act to cancel an authorised person's Part 4A permission, where it appears to the Authority that such a person is failing to satisfy the Threshold Conditions.
3. The suitability Threshold Condition provides, in relation to a person ("A") carrying on or seeking to carry on regulated activities which do not consist of or include a PRA-regulated activity, that:

"A must be a fit and proper person having regard to all the circumstances, including –

[...]

(f) whether A'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."

4. The appropriate resources Threshold Condition provides, in relation to a person ("A") carrying on or seeking to carry on regulated activities which do not consist of or include a PRA-regulated activity, that:

"The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on.

[...]

(4) The matters which are relevant in determining whether A has appropriate non-financial resources include-

[...]

(a) whether A's non-financial resources are sufficient to enable A to comply with –

(i) requirements imposed or likely to be imposed on A by [the Authority] in the course of the exercise of its functions[...]"

RELEVANT HANDBOOK AND OTHER REGULATORY PROVISIONS

5. In exercising its power to cancel a firm's Part 4A permission, the Authority must have regard to the regulatory requirements and guidance published in the Handbook and in regulatory guides, such as EG. The main considerations relevant to the action specified in this Decision Notice are set out below.

Relevant Principle

6. Principle 11 requires a firm to deal with its regulators in an open and co-operative way, and to disclose to the Authority appropriately anything relating to the firm of which the Authority would reasonably expect notice.

Guidance concerning the Threshold Condition

7. Guidance on the Threshold Conditions is set out in COND.

COND 2.4 – Appropriate resources: Paragraph 2D of Schedule 6 to the Act

8. COND 2.4.1AUK reproduces the relevant statutory provision that the resources of a person concerned must be appropriate in relation to the regulated activities that A carries on or seeks to carry on, and that the matters which are relevant in determining whether A has appropriate non-financial resources include whether A's non-financial resources are sufficient to enable A to comply with the requirements imposed or likely to be imposed on A by the Authority in the course of the exercise of its functions.

COND 2.5 – Suitability: Paragraph 2E of Schedule 6 to the Act

9. COND 2.5.1AUK reproduces the relevant statutory provision that a person concerned must be a fit and proper person having regard to all the circumstances, including, amongst other things, the need to ensure that its 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 and whether those who manage A's affairs have adequate skills and experience and act with probity.
10. COND 2.5.1BG confirms that paragraph 2E of Schedule 6 to the Act sets out the suitability Threshold Condition for firms carrying on, or seeking to carry on, regulated activities which do not consist of or include a PRA-regulated activity.
11. COND 2.5.2G states that the Authority will take into consideration anything that could influence a firm's continuing ability to satisfy the suitability Threshold Condition.
12. COND 2.5.6G gives 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, the suitability Threshold Condition including, but not limited to, whether:
 - the firm has been open and co-operative in all its dealings with the Authority and is ready, willing and organised to comply with the requirements and standards under the regulatory system (COND 2.5.6G(1)); or
 - the firm has contravened, amongst other things, any provisions of the regulatory system, which includes the Principles and other rules (COND 2.5.6G(4)).

OTHER RELEVANT REGULATORY PROVISIONS

13. The Authority's policy in relation to exercising its powers is set out in EG, the relevant provisions of which are summarised below.

Cancelling a firm's Part 4A permission on the Authority's own initiative

14. EG 8.1.1(1) provides that the Authority may use its own-initiative power to vary or cancel the Part 4A permission of an authorised person under section 55J of the Act where the person is failing or is likely to fail to satisfy the Threshold Conditions for which the Authority is responsible.
15. EG 8.5.1(1) provides that the Authority will consider cancelling a firm's Part 4A permission using its own-initiative powers contained in section 55J of the Act in circumstances where the Authority has very serious concerns about a firm, or the way its business is or has been conducted.
16. EG 8.5.2 sets out examples of the circumstances in which the Authority may cancel a firm's Part 4A permission. One such example is the failure by a firm to co-operate with the FCA which is of sufficient seriousness that the Authority ceases to be satisfied that the firm is fit and proper, for example failing without reasonable excuse to provide material information or take remedial action reasonably required by the Authority (EG 8.5.2(8)(b)).