
FINAL NOTICE

To: **Gedik International Ltd**

Firm
Reference
Number: **916641**

Date: **18th June 2021**

1. ACTION

1.1 By an application received by the Authority on 27 March 2020, Gedik International Limited, Company number 11686331, applied under section 55H of FSMA for a variation to its Part 4A permission to include the following:

- a. Arranging, safeguarding and administration of assets; and
- b. Rolling Spot FX (across all current activities for which the firm has permission)

1.2 For the reasons given in this notice and pursuant to section 55H of FSMA, the Authority has refused the Application.

2. SUMMARY OF REASONS

2.1 On the basis of the facts and matters described below, the Authority considers that it cannot ensure that, if the Application were granted, the firm would satisfy and continue to satisfy, in relation to all of the regulated activities for which Gedik would have permission, the threshold conditions for which the Authority is responsible. More

particularly, the Authority cannot ensure that the firm would satisfy and continue to satisfy the Effective Supervision and Appropriate Resources threshold conditions.

- 2.2 The firm applied to vary its permission to enable it to trade in an additional financial product but told the Authority that this variation would not affect the firm's business model or financial forecasts. The Authority considers this is not correct. The additional permission sought by the firm would enable the firm to trade a new product, creating a new, prospective stream of revenue and with a different operational flow, thereby necessitating changes to the firm's internal systems.
- 2.3 The firm's contention that the proposed variation would not result in the changes the Authority has identified is wrong and indicates that the firm cannot be relied on to supply the Authority with accurate or reliable information relating to the matters in the Application. The Authority therefore considers that, if the Application were granted, the firm would not satisfy, and continue to satisfy, the Effective Supervision threshold condition. On the basis of these facts the Authority also considers that the firm does not have appropriate non-financial resources, including systems and controls which are fit for purpose and adequately skilled and competent human resources, in relation to the regulated activities for which it would have permission, if the application were granted and, as such, it would not satisfy, and continue to satisfy the Appropriate Resources threshold condition.

3 DEFINITIONS

- 3.1 The definitions below are used in this Final Notice.

"the Act" or "FSMA" means the Financial Services and Markets Act 2000.

"the Application" means the application referred to in paragraph 1.1 above.

"the Authority" means the Financial Conduct Authority;

"COND" means the Threshold Conditions part of the Handbook;

"FX" means foreign exchange;

"Gedik" or "the firm" means Gedik International Limited;

"the Handbook" means the Authority's Handbook of rules and guidance;

"the RDC" means the Regulatory Decisions Committee of the Authority (see further under Procedural Matters below);

"Rolling Spot FX" is a contract classified by the Authority as either of the following:

(a) a future, other than a future traded or expressed to be as traded on a recognised investment exchange, where the property which is to be sold under the contract is foreign exchange or sterling; or

(b) a contract for differences, where the profit is to be secured or loss avoided by reference to fluctuations in foreign exchange; and in either case where the contract is entered into for the purpose of speculation;

“VOP” means variation of permission.

4 FACTS AND MATTERS

Background

4.1 Gedik was authorised by the Authority on 24 February 2020.

4.2 The firm is an agency brokerage with a focus on instruments of Turkish origin and with a specific emphasis on exchange traded equities and futures, bonds for professional clients and eligible counterparties.

4.3 The firm’s current permission includes the following activities, instruments and restriction:

a) Dealing in investments as an agent

b) Arranging (bringing about) deals in investments

c) Making arrangements with a view to transactions in investments

d) Agreeing to carry on a regulated activity

e) Instruments: Shares, Debentures, Government and public securities, Rights (security & contractually-based), Options and Futures (excluding commodity futures and Rolling Spot FX contracts)

f) Restriction: The firm may control but must not hold client money

4.4 The firm’s registered office is 110 Bishopsgate, London, EC2N 4AY.

Previous applications

- 4.5 Gedik made an application on 26 July 2019 for a suite of permissions which also included permission to undertake Rolling Spot FX. The application was withdrawn voluntarily on 11 November 2019 and on the same day a fresh application was submitted. As part of the second application, which did not include permission to undertake Rolling Spot FX, the firm submitted both financial forecasts and a business plan. The second application was subsequently approved on 24 February 2020.

Current application

- 4.6 The Application was submitted on 27 March 2020. The requested VOP would permit the firm to carry out its existing regulated activities in relation to the additional regulated financial instrument of Rolling Spot FX contracts. It would also permit the firm to arrange the safeguarding and administration of assets, so that the firm could arrange an account with a prime broker to handle the custody of the Rolling Spot FX contracts on behalf of the firm's clients. The reason given for the requested VOP was that the firm had identified an increase in demand for the provision of FX trading. The firm stated that there would be no change to its overall business strategy and no change to its operational, legal or market risks as a result of the proposed variation.
- 4.7 Following submission of the Application, in correspondence dated 28 April 2020, the firm confirmed that there would be no change to its business plan or to the financial forecasts submitted in the second application, which had been approved in February 2020. In that correspondence, the firm did, however, state that COVID-19 had created an '*unprecedented situation*' in which the firm had to enact its '*business continuity plan*' and was '*unable to conduct any meaningful business development*'. The firm said that the situation had prompted it to look afresh to determine new business opportunities to navigate the crisis.
- 4.8 In May 2020 at the Authority's request, the firm submitted revised financial forecasts which contained a new line entry showing that the revenue anticipated from the Rolling Spot FX in the first twelve months would account for 29.98% of the firm's total revenue. The firm also submitted a revised business plan, also at the Authority's request, which showed changes consequent upon the proposed grant of the Rolling Spot FX permission.

- 4.9 Notwithstanding the revised documents provided by the firm, in further correspondence on 9 June 2020, the firm restated its belief that no changes to its financial forecasts or business plan would arise from the VOP.
- 4.10 The Authority considers that permission to undertake Rolling Spot FX would necessarily change the firm's financial forecasts, if only because a previously unavailable stream of prospective revenue should now feature in the revised forecasts, and that this should have been obvious to the firm at the time it submitted the Application.
- 4.11 Similarly, the pursuit of a new line of business in Rolling Spot FX (a high-risk investment product) which was previously not available to the firm would necessitate changes to the business model, in as much as the operational flow and settlement of an FX trade is different to the operational flow of the types of products in which the firm is currently authorised to trade. These differences would therefore necessitate the use of different software to manage transactions in a functional and compliant way. The Authority considers that this should also have been obvious to the firm at the time it submitted the Application.
- 4.12 Accordingly, the Authority considers the firm's contention that its business plan and financial forecasts would not change as a result of the VOP is unsupportable and therefore incorrect.

5. **IMPACT ON THE THRESHOLD CONDITIONS**

- 5.1 The regulatory provisions relevant to this Final Notice are referred to in Annex A.
- 5.2 The Authority considers that, if the Application were granted, it could not ensure that the firm would satisfy, and continue to satisfy, the following threshold conditions, in relation to the regulated activities for which it would have permission.

a) Effective Supervision

- 5.3 In the course of the VOP application process, the firm has asserted that the addition of Rolling Spot FX (a high-risk investment product) would not change the firm's business model nor its financial forecasts, which the Authority considers is not correct for the reasons set out above.

- 5.4 The fact that the firm has denied that the business model/financial forecasts would change in the light of the proposed variation, even after the submission of revised documentation, submitted after challenge from the Authority, suggests that the firm cannot be relied upon to provide to the Authority information about the matters relevant to the proposed VOP in an accurate and timely way.
- 5.5 The firm's approach does not reflect a mere slip or oversight. The revised documents were submitted apparently as a concession to the Authority and the firm continues to maintain that they are not necessary. The Authority does not agree and considers that it should have been obvious to the firm that a revised business model and revised forecasts were necessary for the Authority to assess the Application.
- 5.6 The Authority is not satisfied that, if the Application were granted, it would receive accurate and reliable information from the firm in relation to the matters to which the Application relates, sufficient 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 and to identify and assess the impact on its statutory objectives.

b) Appropriate Resources

- 5.7 In order to satisfy the Appropriate Resources threshold condition, the firm must be able to satisfy the Authority that it has appropriate non-financial resources, which include any systems, controls, plans or policies that the firm maintains and the human resources that the firm has available.
- 5.8 The firm's human resources are required to be appropriately skilled and experienced in relation to the regulated activities for which it would have permission, if the application were granted. On the facts referred to in this notice, the Authority is not satisfied that this is the case.
- 5.9 The firm provided a revised business plan on 27 May 2020, only after it had been challenged. Neither the revised business plan nor the related correspondence received from the firm demonstrates to the Authority's satisfaction, that the firm has fully considered how the proposed new permissions would impact its current operations, and more particularly whether the firm's systems and controls more widely are fit for purpose in relation to the regulated activities for which it would have permission, if the application

were granted.

- 5.10 In fact, the firm appears to maintain that, even after supplying the revised financial forecasts and business plan, the proposed VOP is not '*a meaningful change to our business*', which reinforces the Authority's concerns in this regard.
- 5.11 The Authority is therefore not satisfied that the firm's non-financial resources are appropriate for the proposed new permissions.

IMPORTANT NOTICES

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

Publication

- 6.1 Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the Authority must publish such information about the matter to 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 publication would, in the opinion of the Authority, be unfair or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
- 6.2 The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

- 6.3 For more information concerning this matter generally, contact *Tim Lowe*, Manager, *Wholesale Authorisations* at the Authority (direct line: 020 7066 9478/email: Tim.Lowe@fca.org.uk).

7. PROCEDURAL MATTERS

Decision maker

- 7.1 The decision which gave rise to the obligation to give this Notice was made by the RDC. The RDC is a committee of the Authority which takes certain decisions on behalf of the Authority. The members of the RDC are separate to the Authority staff involved in conducting investigations and recommending action against firms and individuals. Further information about the RDC can be found on the Authority's website:

<https://www.fca.org.uk/about/committees/regulatory-decisions-committee-rdc>

Signature



A handwritten signature in black ink, appearing to read "A Brune". The signature is written in a cursive style with a large initial "A".

ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS DECISION NOTICE

Relevant statutory provisions

1. The legal framework for the Application is set out in Part 4A of FSMA. The Application has been made under section 55H (“Variation by FCA at request of authorised person”)
2. Under section 55H, the FCA may, on the application of a firm, vary the permission by adding, removing or varying the description of a regulated activity to which the permission relates. It also has the power to refuse an application if it is desirable to do so to advance any of its operational objectives.
3. Section 55B(3) states that:

“In giving or varying permission, imposing or varying a requirement, or giving consent, under any provision of this Part, 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.”
4. Paragraph 2D (Appropriate Resources) of Schedule 6 of the Act (and referred to as COND 2.4 in the FCA Handbook) states, in so far as relevant, that:

(1) 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) the skills and experience of those who manage A’s affairs
5. Paragraph 2C (Effective Supervision) of Schedule 6 of the Act states, in so far as relevant, that:

(1) A must be capable of being effectively supervised by the FCA having regard to all the circumstances including:

(a) the nature (including the complexity) of the regulated activities that A carries on or seeks to carry on;

- (b) the complexity of any products that A provides or will provide in carrying on those activities;*
- (c) the way in which A's business is organised;*
- (d) if A is a member of a group, whether membership of the group is likely to prevent the FCA's effective supervision of A;*
- (e) whether A is subject to consolidated supervision required under any of the relevant directives;*

Relevant Handbook provisions

6. The FCA Handbook gives guidance in relation to how the FCA will interpret and apply the Threshold Conditions in the part of the Handbook known as COND.
7. In relation to the 'Appropriate Resources' threshold condition, COND 2.4.2G says, so far as relevant:

2) In this context, the FCA will interpret the term 'appropriate' as meaning sufficient in terms of quantity, quality and availability, and 'resources' as including all financial resources, 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.

2A) Paragraph 1A(2) of Schedule 6 to the Act provides that 'non-financial resources' of a firm for the purposes of the threshold conditions include any systems, controls, plans or policies that the firm maintains and the human resources that the firm has available.

8. In relation to the 'Effective Supervision' threshold condition, COND 2.3.3G states, so far as relevant:

In assessing the threshold conditions set out in paragraphs 2C of Schedule 6 to the Act, factors which the FCA will take into consideration include, among other things, whether:

1) it is likely that the FCA will receive adequate information from the firm, and those persons with whom the firm has close links, to enable it to determine whether the firm is complying with the requirements and standards under the regulatory system for which

the FCA 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 FCA;

9. COND 2.3.3G provides that, in assessing the threshold conditions set out in paragraph 2C of Schedule 6 to FSMA factors which the FCA will take into consideration will include, among other things, whether:

(1) it is likely that the FCA will receive adequate information from the firm, and those persons with whom the firm has close links, to enable it to determine whether the firm is complying with the requirements and standards under the regulatory system for which the FCA 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 FCA;

(2) the structure and geographical spread of the firm, the group to which it belongs and other persons with whom the firm has close links, might hinder the provision of adequate and reliable flows of information to the FCA; factors which may hinder these flows include the fact there may be branches or connected companies in territories which supervise companies to a different standard or territories with laws which restrict the free flow of information, although the FCA will consider the totality of information available from all sources; and

(4) in respect of a firm not carrying on, or seeking to carry on, a PRA-regulated activity, it is possible to assess with confidence the overall financial position of the group at any particular time; factors which may make this difficult include lack of audited consolidated accounts for a group, if companies in the same group as the firm have different financial years and accounting dates and if they do not share common auditors.

ANNEX B - REPRESENTATIONS

1. A summary of Gedik's key representations (in italics), and the Authority's conclusions in respect of them, are set out below.

Changes to Gedik's business plan, systems and controls, and financial forecast

2. *Gedik filed a VOP application in order to pivot and navigate through the unknown financial environment in 2020. The Rolling Spot FX in the VOP application would be provided to clients alongside Gedik's existing services, and its addition would not change Gedik's operational, legal or market risks, or involve any changes to outsourcing.*

3. *At the time when the VOP application was submitted, there were no changes to Gedik's financial forecasts, though the firm provided the Authority with an updated financial forecast in May 2020.*

4. *As the updated forecasts show a modest total revenue forecast for 12 months, it is misleading to quantify the Rolling Spot FX revenue as 29.98% of Gedik's total revenue.*

5. *Gedik already had permissions to deal in FX-related products. The firm was able to deal in seven types of financial instruments, all of which settle differently. The VOP application would only be a minor change to the firm's existing permissions and to its existing professional clients. The firm already had in place a Regulatory Business Plan which summarised the order flow for Rolling Spot FX products, which has only very minor changes compared to its order flow for equities, futures and bonds. The firm's existing IT system for Rolling Spot FX was also well-known within the firm and amongst its senior managers.*

6. *Gedik had understood from the Authority that the Threshold Conditions could be met if the firm's Rolling Spot FX clients were restricted to professional clients pursuant to COBS 3.5.2. However, the non-standard restriction would not apply to the other financial instruments within the firm's permissions. Gedik did not accept the non-standard restriction due to, amongst other reasons, having adequate senior compliance resources to comply with requirements.*

7. *As Gedik is an execution-only broker which passes client orders on to other brokers*

for execution, the settlement of the trade is between the third party and the client. The Authority ought only to consider Gedik's internal systems and controls.

8. *Gedik has adequate resources and can be effectively supervised, and has previously provided its senior managers' CVs for the Authority to consider. Staff are already familiar with Gedik's IT systems, which do not require material alteration to accommodate the Rolling Spot FX instrument.*

9. The Authority notes that when the VOP was applied for, the firm declared in the Application that there would be no changes to the financial forecasts or business plan that had been submitted as part of the authorisation process. This was confirmed by the firm in subsequent emails. However, the Authority considers that the addition of a new Rolling Spot FX financial instrument to the firm's existing permissions would necessarily generate new revenue, and would therefore impact Gedik's financial forecasts. The Authority considers that Gedik's existing business model is low risk, but that Rolling Spot FX instruments are high-risk investment products, as they are leveraged financial instruments. The Authority considers that the inclusion of Rolling Spot FX instruments would necessitate a change to Gedik's business plan.

10. Although the financial forecasts submitted with the Application did not carry a line entry for the new Rolling Spot FX instrument, the revised May 2020 forecasts did reflect a revenue stream for the Rolling Spot FX product, amounting to 29.98% of Gedik's entire revenue over the accounting period. The Authority considers that the separate revenue stream does alter Gedik's financial forecasts, notwithstanding the modest total revenue figure. The Authority does not consider that other parts of the financial forecasts are relevant to this particular issue.

11. The Authority has considered Gedik's revised business plan dated 9 June 2020. The business plan has changed by virtue of the inclusion of the Rolling Spot FX instrument and its accompanying changes to the firm's systems and financial forecasts. Gedik ought to have recognised the impact that adding the Rolling Spot FX instrument – a high-risk investment product – would have on its business plan, and should have provided the Authority with adequate information to enable the Authority to determine whether the firm would comply with all relevant regulatory requirements and standards. The Authority does not consider this to be a minor change.

12. So far as the Authority's communications with the firm regarding the non-standard

restriction are concerned, it was not suggested that agreement by the firm to such a restriction would necessarily result in approval of the Application. As Gedik would be dealing with professional and eligible counterparty clients, the Authority considers that it was reasonable and proportionate to query whether the firm would agree to a non-standard restriction, to ensure that Gedik's permissions would fit its business model.

13. The Authority considers that including high-risk Rolling Spot FX instruments would require a change to Gedik's systems and controls to accommodate the different features and operations of the instrument. The firm's revised June 2020 business plan shows a change to the firm's operating systems, with a separate process to reflect the addition of the Rolling Spot FX instrument. Given the nature of Rolling Spot FX instruments, the Authority does not consider the materiality of that change to Gedik's systems and controls to be insignificant, or that the risks associated with the product could be managed in the same way as for Gedik's existing FX products.

14. The Authority therefore does not accept Gedik's contention that the additional Rolling Spot FX instrument would not affect the firm's business model, systems and controls or that its original financial forecasts were correct.

15. The Authority considers that, despite the combined experience of Gedik's senior staff, there remains a failure to recognise the impact and change required of the firm as a result of introducing Rolling Spot FX instruments. The firm failed to recognise the potential change and impact this high-risk investment product would have on its business model. The Authority cannot therefore ensure that Gedik would satisfy, and continue to satisfy, the Appropriate Resources threshold condition in relation to the matters in the Application, if it were granted.

16. As the firm has not supplied accurate and reliable information when requested by the Authority during the application process, the Authority cannot ensure that Gedik would satisfy, and continue to satisfy the Effective Supervision threshold condition in relation to the matters in the Application, if it were granted.

Gedik's concerns about the Authority's conduct

17. *Gedik is concerned about the fairness and transparency of the Authority's internal decision-making process.*

18. *In particular, Gedik does not agree with the contents of the warning notice, and is particularly concerned that it has not disclosed all material facts and underlying supporting documents such as the written record of communications, and the CVs of its senior management.*

19. *Gedik is concerned about the manner in which the Authority has previously communicated with it, by not specifying which supporting documents the firm should be aware of, or submitting documents that did not disclose the entirety of communications between Gedik and the Authority. The Authorisations team has submitted inaccurate arguments and conclusions to the RDC, and the submitted documents were misleading. Gedik is concerned that selectively edited quotes have been put to the RDC in a misleading manner.*

20. The Authority does not consider that any of the concerns raised by Gedik undermine the evidence relied upon by it in reaching its decision, which has been made by the RDC, a committee of the Authority which is separate from both the Authority's Authorisations Division and the Regulatory Transactions Committee which issued the Warning Notice.

21. Evidence has been provided to enable the RDC to consider the issues in this case and its factual background. The Authority notes that, following Gedik's written representations, the CVs of Gedik's senior management and the full history of exchanges between the Authority and Gedik have been provided to the RDC as part of that evidence. The Authority does not consider that their late production has prejudiced Gedik, as they have been considered by the RDC and in any event are of limited relevance to the issue of whether the VOP application required a change to Gedik's business plan or financial forecasts. The Authority notes that where extracts of its communications with Gedik have been cited for brevity, the full documents have also been supplied to the RDC as part of the documentary evidence made available to it.

22. Any concerns which Gedik has about the Authority's conduct may be pursued by using the Complaints Scheme established under the Financial Services Act 2012, and the Authority does not address their substance in this Notice. Gedik can email complaints.scheme@fca.org.uk or call the Complaints Helpline on 020 7066 9870. Further information about making a complaint can be found here:

<https://www.fca.org.uk/about/complain-about-regulators>