
FINAL NOTICE

To: Glyn Goodyear

Address: The Design Exchange
34 Peckover Street
Bradford
West Yorkshire
BD1 5BD

**FCA
Reference
Number:** 669427

Dated: 14 April 2016

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Goodyear.
2. The Authority gave Mr Goodyear the Decision Notice which notified Mr Goodyear that for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel Mr Goodyear's Part 4A permission.
3. Mr Goodyear has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to him.
4. Accordingly, the Authority has today cancelled Mr Goodyear's Part 4A permission.

DEFINITIONS

5. The definitions below are used in this Final Notice:

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

"the Authority" means the Financial Conduct Authority;

"COND" means the Guidance on the Threshold Conditions set out in the Handbook;

"the Decision Notice" means the Decision Notice given to Mr Goodyear dated 10 March 2016;

"DISP" means the Dispute Resolution: Complaints Manual, which is part of the Handbook;

"EG" means the Enforcement Guide;

"the FOS" means the Financial Ombudsman Service;

"the FOS Award" means the Final Decision made by the FOS against Mr Goodyear on 10 April 2015, in relation to Mr W (decision reference: DRN6361761);

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

"Mr Goodyear" means Glyn Goodyear;

"Mr Goodyear's Part 4A permission" means the permission granted by the Authority to Mr Goodyear under the Act;

"Mr W" means the customer of Mr Goodyear who made the complaint to the FOS to which decision reference DRN6361761 refers;

"the OFT" means the Office of Fair Trading;

"the Principles" means the Authority's Principles for Businesses;

"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;

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber); and

"the Warning Notice" means the Warning Notice given to Mr Goodyear dated 21 January 2016.

RELEVANT STATUTORY PROVISIONS

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

SUMMARY OF THE REASONS

7. On the basis of the facts and matters and conclusions described in the Warning Notice issued to Mr Goodyear, and in the Decision Notice, it appears to the Authority that:
 - as a result of Mr Goodyear's persistent failure to comply with the FOS Award, despite repeated requests by the FOS and the Authority that he comply, Mr

Goodyear has breached DISP 3.7.12R(1), which requires a firm to comply promptly with any award or direction made against it by the FOS;

- by not complying with the FOS Award, Mr Goodyear has also breached Principle 6 (Customers' interests) of the Principles, which requires a firm to pay due regard to the interests of its customers and treat them fairly;
- also, by not complying with the FOS Award, despite repeated requests by the FOS and the Authority that he do so, Mr Goodyear has breached Principle 11 (Relations with regulators) of the Principles, which requires a firm to deal with its regulator in an open and co-operative way, and to disclose to the Authority anything relating to the firm of which the Authority would reasonably expect notice; and
- considering all the circumstances, Mr Goodyear is not a fit and proper person because he has failed to satisfy the Authority that he is conducting his affairs in an appropriate manner, having regard in particular to the interests of consumers, and is therefore failing to satisfy the suitability Threshold Condition.

FACTS AND MATTERS RELIED ON

8. On 1 April 2014, following the transfer of Consumer Credit regulation from the OFT to the Authority, Mr Goodyear was granted an Interim Permission to conduct regulated activities relating to consumer credit, having submitted an application to the Authority for an Interim Permission on 21 March 2014.
9. On 3 June 2015, Mr Goodyear was authorised by the Authority to conduct consumer credit business, having submitted an application to the Authority for a Part 4A permission on 29 December 2014.
10. Mr W complained to the FOS that Mr Goodyear failed to provide the debt-counselling service he expected. In its decision of 10 April 2015, the FOS upheld Mr W's complaint and directed Mr Goodyear to:
 - refund Mr W the three £600 instalments he paid to Mr Goodyear;
 - pay simple interest at 8% per annum on each refund from the date each payment was made (21 February 2011, 21 March 2011 and 21 April 2011 respectively) to the date of settlement; and
 - pay Mr W £500 compensation for the upset and inconvenience caused by Mr Goodyear's overall treatment of Mr W and the way he handled Mr W's complaint.
11. Mr Goodyear did not seek a judicial review of the FOS Award, which therefore remains binding on him under section 228(5) of the Act. Mr Goodyear has failed to comply with the FOS Award, despite repeated requests by the FOS and the Authority that he do so.

DECISION MAKER

12. The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

IMPORTANT

13. This Final Notice is given to Mr Goodyear in accordance with section 390(1) of the Act.

Publicity

14. 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 a 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 Mr Goodyear or prejudicial to the interest of consumers.
15. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority Contact

16. For more information concerning this matter generally, please contact Adam Doe at the Authority (direct line: 020 7066 5522).

John Kirby
Enforcement and Market Oversight Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives established in section 1(B) of the Act include the protection of 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 it is failing to satisfy the Threshold Conditions.
3. Section 228(5) of the Act provides that if the complainant notifies the FOS that he accepts the determination, it is binding on the respondent and the complainant, and is final.
4. 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 –

- (c) the need to ensure that A's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers [...]
- (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 sound and prudent manner;"

RELEVANT REGULATORY PROVISIONS

5. In exercising its power to cancel a Part 4A permission, the Authority must have regard to guidance published in the Handbook. The relevant main considerations in relation to the cancellation action specified above are set out below.

Relevant Rule

6. Authority Rule DISP 3.7.12R(1), requires that a respondent (Mr Goodyear is a respondent under the definition given in the Handbook), complies promptly with any award or direction made by the FOS.

Relevant Principles

7. Principle 6 (Customers' interests) of the Principles requires a firm to pay due regard to the interests of its customers and treat them fairly.
8. Principle 11 (Relations with regulators) of the Principles states that a firm must deal with its regulators in an open and co-operative way.

Guidance concerning the relevant Threshold Condition

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

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

10. COND 2.5.1AUK(1) reproduces the relevant statutory provision that the person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances including, amongst other things, the need to ensure that his affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system, and whether the firm's business is being managed in such a way as to ensure that its affairs are being conducted in a sound and prudent manner (COND 2.5.1AUK(1)(c) and (f)).
11. COND 2.5.4G(2) states that examples of the considerations to which the Authority may have regard when assessing whether a firm will satisfy and continue to satisfy the Threshold Conditions include whether the firm conducts its business in compliance with proper standards (COND 2.5.4G(2)(a)).
12. COND 2.5.6G states that the Authority, when forming its opinion as to whether a firm is conducting its business with integrity and in compliance with proper standards, may have regard to considerations, including 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)), and whether the firm has contravened any provisions of the Act or the regulatory system, which include the Threshold Conditions, the Principles and other rules (COND 2.5.6G(4)).

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

13. The Authority's policy in relation to its enforcement powers is set out in EG.
14. EG 8.1(1) provides that the Authority may use its own initiative power to vary or cancel the 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 8.13(1) states 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 the firm, or the way its business is or has been conducted.
16. EG 8.14 provides examples of the circumstances in which the Authority will consider cancelling a Part 4A permission and EG 8.14(1) specifies that non-compliance with an award made by the FOS against a firm is one such circumstance.