
FINAL NOTICE

To: **GS Cars (UK) Limited**

Address: Polo Ground Car Sales Garage
Pontyfelin Road
New Inn
Pontypool
Torfaen
NP4 0DQ

FRN: 618488

Date: 27 August 2014

ACTION

1. For the reasons given in this Final Notice, the Financial Conduct Authority (the "Authority") has refused an application by GS Cars (UK) Limited ("GS Cars") for permission under Part 4A of the Financial Services and Markets Act 2000 (the "Act").

SUMMARY

2. On 20 September 2012 GS Cars applied to the Office of Fair Trading (the "OFT") for a consumer credit licence (the "Application").
3. The OFT gave GS Cars notice, dated 5 March 2014, of its determination to refuse the Application on the basis that, for each of the reasons set out below, GS Cars was not fit to hold such a licence.
4. On 1 April 2014 statutory responsibility for consumer credit regulation transferred from the OFT to the Authority, subject to the terms of the Transitional Order, as defined below.

5. By virtue of the Transitional Order, GS Cars not already having any permission under Part 4A of the Act, the OFT's notice of determination is, since 1 April 2014, to be treated as a notice given by the Authority under section 55X(4) of the Act of its decision to refuse the Application as though it had been an application by GS Cars for such permission.
6. GS Cars has not appealed the OFT's notice and the period during which it could have done so has now expired.

REASONS AND IMPACT ON FITNESS

7. For each of the following reasons, GS Cars was not fit to hold a consumer credit licence and is not fit to have permission under Part 4A of the Act:
 - (1) Gareth Steed, a director of GS Cars since its incorporation on 20 October 2009 and at all times since its majority shareholder, pleaded guilty on 23 April 2007 to an offence of defrauding the Revenue, specifically failing to submit accounts for tax due with intent to defraud, for which he was sentenced to 24 weeks imprisonment, suspended for 24 months.
 - (2) Caroline Wileman, a director of GS Cars since 20 September 2012, in completing and signing the Application on its behalf, recklessly failed to disclose that conviction, of which she was aware, despite it being a matter expressly required by one of the questions in the Application to be disclosed in completing it.
8. The Authority will consider each application under the Act on its merits. It is, however, always mindful of the risk of loss to consumers and others created by the employment in and/or appointment to roles in regulated financial services of persons of doubtful integrity.
9. The Authority will be particularly concerned, subject to the terms of the Rehabilitation of Offenders Act 1974 and associated legislation, by such actual and/or proposed employment and/or appointment of individuals with convictions for dishonesty, although it does not rule out the possibility that there may be limited circumstances in which it may be acceptable.
10. The Authority expects applications and notifications made to it under the Act to be full and complete. This includes the disclosure of any information which the Authority expressly requires. The Authority will closely scrutinise failure to disclose such information - if known by or available to the applicant or notifying party - however apparently unimportant the information and whether or not it is public information and/or already known to the Authority.
11. The Annex to this Final Notice sets out the regulatory provisions relevant to this Final Notice.

DEFINITIONS

12. The following definitions are used in this Final Notice:

The "Act" means the Financial Services and Markets Act 2000.

The "Application" means GS Cars' application for a consumer credit licence dated 20 September 2012.

The "Authority" means the Financial Conduct Authority.

"GS Cars" means the applicant, GS Cars (UK) Limited.

The "OFT" means the Office of Fair Trading.

The "Transitional Order" means the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013.

IMPORTANT INFORMATION

13. This Final Notice is given under section 390(1) of the Act.
14. Sections 391(4), 391(6) and 391(7) of the Act apply to this Final Notice. Under those provisions, the Authority must publish such information about the matter to which this Final Notice relates as the Authority considers appropriate.
15. Such 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.
16. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.
17. For more information concerning this matter generally, contact Keith Cooper, Manager, Debt, Credit & Regulatory Permissions Department, at the Authority (direct line: 020 7066 7466 / email: Keith.Cooper@fca.org.uk).

Nicholas Mears
Head of Department
Authorisations Division
The Financial Conduct Authority

ANNEX – REGULATORY PROVISIONS RELEVANT TO THIS FINAL NOTICE

Relevant statutory provisions

1. Section 7 of the Consumer Credit Act 1974 (the “CCA”) provided, until that section was repealed by the Transitional Order with effect from 1 April 2014, that it was an offence for a person, for the purposes of or in connection with any requirement imposed or other provision made by or under the CCA, recklessly to give materially false or misleading information to the OFT.
2. The OFT was required, by section 25 of the CCA, which section was also repealed by the Transitional Order with effect from 1 April 2014, to be satisfied, before issuing a consumer credit licence of the type applied for by GS Cars, that the applicant was fit to hold it, having regard, among other factors, to whether any of the applicant’s agents, associates and/or controllers had committed any offence involving fraud and/or had contravened the CCA itself.
3. The Authority is required, by section 55B(3) of the Act, before giving permission under Part 4A of the Act to any person, to ensure that that person will satisfy and continue to satisfy, in relation to all of the regulated activities for which the person will have permission, the relevant threshold conditions set out in Schedule 6 to the Act.
4. Paragraph 2E of Schedule 6 to the Act requires, specifically, as one of those conditions, that the Authority should ensure that each such applicant is fit and proper.
5. Paragraph 2E further provides that the Authority is to consider in this regard:
 - (1) the applicant’s connections with other persons;
 - (2) the need to ensure that the applicant’s affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;
 - (3) whether the applicant has complied with requirements imposed by the Authority, or requests made by the Authority, relating to the provision of information to the Authority;
 - (4) whether those who manage the applicant’s affairs have acted and may be expected to act with probity; and
 - (5) the need to minimise the extent to which it is possible for the business carried on or to be carried on by the applicant to be used for a purpose connected with financial crime.

Relevant provisions of the Transitional Order

6. In respect of any application for a consumer credit licence of the type applied for by GS Cars, if determined by the OFT before 1 April 2014, in relation to which the appeal period had not ended by that date and where the applicant does not have an existing permission under Part 4A of the Act:
 - (1) paragraph 32(2)(a) of the Transitional Order provides that the OFT’s notice of determination is to be treated as a notice given under section 55X(4) of the Act by the Authority of its decision to refuse an application for Part 4A permission; and

- (2) paragraph 32(4) of the Transitional Order provides that the notice has effect subject to any necessary modifications.

Relevant provisions of the Authority's Handbook

7. In exercising its powers in relation to the granting of a Part 4A permission, the Authority must have regard to the guidance published in its own Handbook, including the part entitled Threshold Conditions ("COND").
8. COND 2.5.2G(2) states that the Authority will take into consideration anything that could influence an applicant firm's continuing fitness and propriety and COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the relevant threshold conditions, the Authority will have regard to all relevant matters.
9. COND 1.3.3CG further provides that, when assessing fitness and propriety, the Authority may have regard to any person appearing to be, or likely to be, in a relevant relationship with the firm.
10. For example, a firm's controllers, its directors or partners, other persons with close links to the firm, and other persons that exert influence on the firm which might pose a risk to the firm's fitness and/or propriety, would be in a relevant relationship with the firm.
11. COND 2.5.3G(1) states that the emphasis of paragraph 2E of Schedule 6 of the Act is on the suitability of the firm itself but that, in certain circumstances, the Authority may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.
12. 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
 - (2) the firm is connected with a person who has been convicted of any criminal offence, in particular of dishonesty.