
FINAL NOTICE

GZ Energy Solutions Limited
110 Carnegie Road
Hillington Road
Hillington Park
Glasgow
G52 4JZ

4 October 2017

ACTION

1. By an application received on 18 August 2016 GZ Energy Solutions Limited ("**GZ**") applied under section 55H of the Act to vary its Part 4A permission by adding to its authorisation the regulated activities of:
 - i. entering into regulated credit agreement as lender (excluding high-cost short term credit, bill of sale agreement and home collected credit agreement); and
 - ii. exercising/having right to exercise lender's rights and duties under a regulated credit agreement (excluding high-cost short term credit, bill of sale agreement, and home collected credit agreement).
2. The Application is incomplete.
3. For the reasons listed below, the Authority has refused the Application.

SUMMARY OF REASONS

4. By its Warning Notice the Authority gave notice that it proposed to refuse the Application and that GZ was entitled to make representations to the Authority about that proposed action.
5. As no representations were received by the Authority from GZ within the time allowed by the Warning Notice, the default procedures in paragraph 2.3.2 of the Authority's Decision Procedure and Penalties Manual applied, permitting the Authority to treat the matters referred to in its Warning Notice as undisputed and, accordingly, to give a Decision Notice.
6. By its Decision notice, the Authority gave GZ notice that it had decided to take the action described above.
7. GZ had 28 days from the date the Decision notice was given to refer the matter to the Upper Tribunal (formerly known as the Financial Services and Markets Tribunal). No referral was made to the Upper Tribunal within this period of time or to date.
8. 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 GZ Final Notice of its refusal.
9. The Authority has decided to refuse the Application and to give this Final Notice as GZ has failed to respond to four separate requests for the provision of information considered, by the Authority, to be necessary to allow the Application to be determined. These requests were made over an eight week period; the latter three requests included a statement to the effect that GZ must contact the Authority or the Authority would recommend to the RTC that they receive a Warning Notice.
10. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and cooperative way. The failure to provide the requested information raises concerns that GZ would fail to do so if the Application were to be granted.
11. The failure to provide the information raises concerns as to whether GZ:
 - i. can be effectively supervised by the Authority as required by threshold condition 2C;
 - ii. has appropriate human resources, given GZ's failure to provide the Authority with the requested information as required by threshold condition 2D; and
 - iii. will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E.

DEFINITIONS

12. 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 one above.

"ARs" means Appointed Representatives.

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority.

"the KPI" means the Key Performance Indicators.

"the PRA" means the Prudential Regulation Authority.

"the RDC" means the Authority's Regulatory Decisions Committee.

"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 11 July 2017 given to GZ by the Authority.

" the Decision Notice" means the decision notice dated 17 August 2017 given to GZ by the Authority.

FACTS AND MATTERS

13. The Application was received by the Authority on 18 August 2016.
14. Further information was requested from GZ under section 55U(5) of the Act.
15. Details of all the relevant communications between the Authority and GZ are set out below.
16. On 10 November 2016 the Authority wrote to GZ by way of email and requested that the firm provide further information by 17 November 2016 in support of the Application. GZ did not provide this information, despite the Authority sending further requests by way of email on 21 November, 2 December, 16 December, 19 December and 22 December 2016 and contacting the firm by telephone on 4 January 2017.
17. On 26 April 2017 the Authority wrote to GZ by way of email and letter using the contact details provided with the Application and requested that the firm provide the following information by 4 May 2017 in support of the Application:
 - i. the identity of any proposed AR of GZ;
 - ii. the identity of the team or person within GZ that is responsible for the supervision of its ARs;

- iii. how GZ has assessed the competency of the team or person referred to at paragraph 15(ii) above;
- iv. the KPIs GZ will use with its ARs;
- v. how these KPIs are agreed with GZ's ARs;
- vi. how GZ will communicate the KPIs to its ARs;
- vii. the checks to be completed by GZ to determine if its ARs are satisfying the KPIs;
- viii. the action to be taken in the event that GZ's ARs are not satisfying the KPIs (referred to at paragraph 15(iv) above);
- ix. whether GZ has a regular monitoring program to review the KPIs (including an explanation as to how any amendments are agreed with its ARs);
- x. the procedures GZ will undertake to ensure its ARs remain competent to perform this role;
- xi. the level and frequency of fees charged by GZ to its ARs;
- xii. the factors GZ will consider when assessing the competency of the sales staff used by its ARs;
- xiii. the information that GZ will require its ARs to report when fulfilling this role (including the frequency of these reports);
- xiv. whether the statement at page four of GZ's 'Procedure for Monitoring & Controlling ARs' document that it will "*review and document procedures quarterly*" relates to the process of GZ reviewing its own procedures, or that of its ARs; and
- xv. confirmation of what the "*spot checks*" mentioned at page four of GZ's 'Procedure for Monitoring & Controlling ARs' document (that it will "*regularly spot check and document that the sales procedure is being undertaken correctly and that standards are being maintained with an AR*") consist of, how they are recorded and confirmation as to how GZ will monitor and address any failures identified as part of this process.

18. On 5 May 2017 the Authority wrote to GZ by way of email using the contact details provided within the Application, noting the lack of a response to its previous correspondence of 26 April 2017. This correspondence informed GZ that a failure to provide the outstanding 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 GZ a Warning Notice proposing to refuse the Application. No response was received to this correspondence by the stated deadline of 19 May 2017 (i.e. within ten working days).

19. On 22 May 2017 the Authority wrote to GZ by way of email and letter using contact details provided within the Application, noting the lack of a response to its previous correspondence of 26 April and 5 May 2017, reiterating that a failure to provide the outstanding information would result in the Application being determined based upon the information received to date. This correspondence again noted that a failure to reply would result in a recommendation to the RTC that it give GZ a Warning Notice proposing to refuse the Application. No response was received to this correspondence by the stated deadline of 6 June 2017 (i.e. within ten working days).

20. On 7 June 2017 the Authority wrote to GZ by way of email and letter using contact details provided within the Application, noting the lack of a response to its previous correspondence of 26 April, 5 May and 22 May 2017, reiterating that a failure to provide the outstanding information would result in the Application being determined based upon the information received to date. This correspondence again noted that this would result in a recommendation to the RTC that it give GZ a Warning Notice proposing to refuse the Application. No response was received to this correspondence by the stated deadline of 21 June 2017 (i.e. within ten working days).

IMPACT ON THRESHOLD CONDITIONS

21. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
22. GZ has failed to respond to four separate requests for the provision of information considered, by the Authority, to be necessary to allow the Application to be determined. These requests were made over an eight week period; the latter three requests included a statement to the effect that GZ must contact the Authority or the Authority would recommend to the RTC that they receive a Warning Notice.
23. The failure to provide the information raises concerns as to whether GZ:
- i. can be effectively supervised by the Authority as required by threshold condition 2C;
 - ii. has appropriate human resources, given GZ's failure to provide the Authority with the requested information as required by threshold condition 2D; and
 - iii. will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E.
24. On the basis of the facts and matters described above, in particular the failure to provide the information sought, the Authority has concluded that it cannot ensure that GZ will satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which GZ would have permission if the application was granted.

IMPORTANT NOTICES

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

Publication

26. 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.

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

Authority contacts

28. For more information concerning this matter generally, contact Sharika Nightingale Manager, Lending and Intermediaries Department at the Authority (direct line: 020 7066 0244/ email: Sharika.Nightingale@fca.org.uk).

Hilary Bourne
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

4. 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 Handbook, including the part titled Threshold Conditions (“COND”). The main considerations in relation to the action specified are set out below.
5. 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.
6. 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.
7. 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.

Threshold Condition 2C: Effective Supervision

8. 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

9. 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.
10. COND 2.4.2G(2A) provides that 'non-financial resources' of the firm include human resources it has available.
11. 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

12. 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.
13. COND 2.5.4G(2)(c) 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.
14. 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 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.