
FINAL NOTICE

Mohammed Sharif Miah
291 Rochdale Road
Oldham
Lancashire
OL1 2HG

8 December 2017

ACTION

1. By way of an application dated 29 July 2016, Mohammed Sharif Miah ("MSM") applied under section 55A of the Act for Part 4A permission to carry on the following regulated activities:
 - i. Limited permission credit broking;
 - ii. Not for Profit and debt counselling; and
 - iii. Not for Profit and debt adjusting.
2. On 15 March and 13 April 2017 MSM informed the Authority that he wished to amend his application under section 55A of the Act for Part 4A permission, latterly to carry on the regulated activity of credit broking.
3. The Application is incomplete.
4. For the reasons listed below, the Authority has refused the Application.

SUMMARY OF REASONS

5. By its Warning Notice the Authority gave notice that it proposed to refuse the Application and that MSM was entitled to make representations to the Authority about that proposed action.
6. As no representations have been received by the Authority from MSM 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 apply, permitting the Authority to treat the matters referred to in its Warning Notice as undisputed and, accordingly, to give a Decision Notice.
7. By its Decision Notice the Authority gave MSM notice that it had decided to take the action described above.
8. MSM had 28 days from the date the Decision Notice was given to refer the matter to the Tribunal. No referral was made to the Tribunal within this period of time or to date.
9. 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 MSM Final Notice of its refusal.
10. The Authority has decided to refuse the Application and to give this Final Notice as MSM has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that MSM will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
11. MSM has failed to respond to five 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 18 week period; the latter three requests included a statement to the effect that MSM must contact the Authority or the Authority would recommend to the RTC that MSM is given a Warning Notice.
12. The Authority has therefore determined the Application based upon the information received to date, in circumstances where its requests for information have not been met. Having reviewed that information, the Authority cannot ensure that MSM satisfies, and will continue to satisfy, the threshold conditions.
13. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and co-operative way. The failure to provide the requested information raises concerns that MSM would fail to do so if the Application were to be granted.
14. The failure to provide the information raises concerns as to whether MSM:
 - i. can be effectively supervised by the Authority as required by threshold condition 2C;
 - ii. has appropriate human resources, given MSM's failure to provide the Authority with the requested information as required by threshold condition 2D; and

- iii. will conduct his business with integrity and in compliance with proper standards as required by threshold condition 2E.

DEFINITIONS

15. The definitions below are used in this Decision Notice.

“the Act” means the Financial Services and Markets Act 2000.

“the Application” means the application referred to in paragraph one above (as amended from time to time).

“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 Decision Notice” means the decision notice dated 30 October 2017 given to MSM by the Authority.

“the PRA” means the Prudential Regulatory 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 21 September 2017 given to MSM by the Authority.

FACTS AND MATTERS

16. The Application was received by the Authority on 29 July 2016.

17. On 13 April 2017 MSM contacted the Authority to indicate that he required a credit brokerage licence. On 27 April 2017 MSM was informed by the Authority that he would require full permission credit broking as opposed to the limited permission which he had originally applied for.

18. Further information was requested from MSM, under section 55U(5) of the Act.

19. Details of all the relevant communications between the Authority and MSM are set out below.

20. On 27 April 2017, the Authority wrote to MSM by email using the contact details provided with the Application and requested that MSM provide the following information in support of the Application by 4 May 2017:

- i. consumer credit supplement form;

- ii. a top-up fee (to reflect the fact that the Application had been amended from limited to full permission credit broking);
- iii. MSM's latest end of year accounts; and
- iv. MSM's compliance monitoring programme document.

The Authority within the same email also requested MSM provide the following documents by 4 May 2017 in support of the Application:

- v. MSM's business plan;
 - vi. MSM's forecast closing balance sheet;
 - vii. MSM's monthly cash flow forecast;
 - viii. MSM's monthly profit and loss forecast;
 - ix. MSM's opening balance sheet; and
 - x. MSM's organisational structure chart.
21. On 29 April 2017 the Authority wrote to MSM by email using the contact details provided within the Application, confirming receipt on 16 March 2017 of the documents listed at paragraphs 20(v) to 20(x) above. The Authority requested that MSM provide the information listed at paragraphs 20(i) to 20(iv) above by 9 May 2017.
22. On 11 May 2017 the Authority wrote to MSM by email using the contact details provided within the Application, noting the lack of a response to its previous correspondence of 27 April 2017. This correspondence informed MSM that a failure to provide the outstanding information would result in the Application being determined based upon the information received to date. The letter reiterated that this would result in a recommendation to the RTC that it give MSM a Warning Notice proposing to refuse the Application. No response was received to this letter by the stated deadline of 25 May 2017 (i.e. within 14 days).
23. On 27 July 2017, the Authority wrote to MSM by email and letter using the contact details provided within the Application, noting the lack of a response to its previous correspondence of 27 April and 11 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. The letter again noted that a failure to reply would result in a recommendation to the RTC that it give MSM a Warning Notice proposing to refuse the Application. No response was received to this letter by the stated deadline of 11 August 2017 (i.e. within 15 days).
24. On 15 August 2017 the Authority wrote to MSM by email and letter using the contact details provided within the Application, noting the lack of a response to its previous correspondence of 27 April, 11 May 2017 and 27 July 2017, reiterating that a failure to provide the outstanding information would result in the Application being determined based upon the information received to date. The letter again noted that a failure to reply would result in a recommendation to the RTC that it give MSM a Warning Notice proposing to refuse the Application. No

response was received to this letter by the stated deadline of 31 August 2017 (i.e. within 16 days).

IMPACT ON THRESHOLD CONDITIONS

25. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
26. MSM has failed to respond to five 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 18 week period. The latter three requests included a statement to the effect that MSM must contact the Authority or face a Warning Notice.
27. The Authority has therefore determined the Application based upon the information received to date, in circumstances where its requests for information have not been met. Having reviewed that information, the Authority cannot ensure that MSM satisfies, and will continue to satisfy, the threshold conditions.
28. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and co-operative way. The failure to provide the information requested raises concerns that MSM would fail to do so if the Application were to be granted.
29. The failure to provide the information raises concerns as to whether MSM:
 - i. can be effectively supervised by the Authority as required by threshold condition 2C;
 - ii. has appropriate human resources, given MSM's failure to provide the Authority with the requested information as required by threshold condition 2D; and
 - iii. will conduct his business with integrity and in compliance with proper standards as required by threshold condition 2E.

IMPORTANT NOTICES

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

Publication

31. 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.
32. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

33. For more information concerning this matter generally, contact John Battram, Manager, Lending and Intermediaries Department at the Authority (direct line: 020 7066 1252 /email: John.Battram@fca.org.uk).

Kim Heffernan
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’s 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.