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## **FINAL NOTICE**

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**1 The Canal Wharf  
Canal Street  
Littleborough  
Greater Manchester  
OL15 0HA**

### **ACTION**

1. By an application dated 24 November 2020 ("the Application"), NWUS Ltd ("NWUS") applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of:
  - a. agreeing to carry on a regulated activity;
  - b. consumer hire;
  - c. limited permission debt adjusting;
  - d. limited permission debt counselling; and
  - e. providing credit information services.
2. For the reasons set out below, the Authority has refused the Application.

## **SUMMARY OF REASONS**

3. By its Warning Notice dated 1 October 2021, the Authority gave notice that it proposed to refuse the Application and that NWUS was entitled to make representations to the Authority about that proposed action.
4. As no representations were received by the Authority from NWUS 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.
5. By its Decision Notice dated 29 November 2021, the Authority gave NWUS notice that it had decided to take the action described above. NWUS 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.
6. 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 NWUS a Final Notice of its refusal.
7. For the reasons set out herein, the Authority cannot ensure that NWUS will satisfy, and continue to satisfy, the threshold conditions set out in schedule 6 of the Act. Specifically, NWUS has not satisfied the Authority that it will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E (suitability).
8. This is principally based on NWUS's connection with Mr Steven Bennett, who was previously a shareholder and director at NWUS and was named in the Application as its proposed candidate to perform the SMF29 Limited Scope function.
9. The information held by the Authority pertaining to Mr Bennett (namely, regarding his involvement in the management of two other firms, which appear to be connected to NWUS) raise concerns as to whether those who manage NWUS' affairs have adequate skills and experience and will act with probity.
10. In light of the above, the Authority has refused the Application.

## **DEFINITIONS**

11. 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 1 above;

"the Authority" means the Financial Conduct Authority;

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

"FIT" means the Fit and Proper test for Employees and Senior Personnel;

"Handbook" means the Authority's Handbook of Rules and Guidance;

"SMF" means Senior Management Function;

"SMF29" means the SMF29 Limited Scope function;

"SUP" means the Supervision section of the Authority's Handbook;

"SYSC" means the Senior Management Arrangements, Systems and Controls section of the Authority's Handbook;

"the Firm" means NWUS Ltd;

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

"the Decision Notice" means the decision notice dated 29 November 2021 given to NWUS by the Authority; and

"the Warning Notice" means the warning notice dated 1 October 2021 given to NWUS by the Authority.

## **FACTS AND MATTERS**

### **Background to the application**

12. NWUS was incorporated in August 2019. Its registered offices are located in Rochdale, England.
13. On 24 November 2020, NWUS applied for permission to carry on consumer hire, and other, regulated activities. The Authority understands from the Application that NWUS applied for authorisation in order to enter into regulated consumer hire agreements with consumers, in respect of the vehicles it owns.
14. In its Application, NWUS named Mr Steven Bennett as its proposed candidate to perform the SMF29 Limited Scope function at NWUS. Mr Bennett was previously a director and shareholder at NWUS until 24 February 2021, when he resigned from both positions.

### **Concerns regarding Mr Bennett**

15. In the course of considering the Application, the Authority became aware of information relating to Mr Bennett's involvement at two other firms, which shall be referred to as "Firm X" and "Firm Y" respectively, and their connection with NWUS.
16. Firm X is a regulated entity that is authorised to carry on consumer credit regulated activities, including: limited permission credit broking, limited permission debt adjusting and limited permission debt counselling. It was authorised by the Authority in February 2020. From this time, Mr Bennett was approved to perform the SMF29 Limited Scope function at Firm X.
17. The relevant information concerning Mr Bennett and Firm X was received by the Authority in April 2020, shortly before Mr Bennett resigned from his position as a director at Firm X. The source of the information is a third-party finance provider, who notified the Authority that it wished to remove Firm X from its panel of credit brokers.
18. The reasons cited for the third-party finance provider removing Firm X from its panel were due to suspicions regarding potentially fraudulent activity that arose from finance applications submitted to it by Firm X. Specifically, three finance applications submitted by Firm X contained the bank details of either a company

associated with Firm X, or Mr Bennett personally, rather than the bank details of the relevant applicants.

19. Separately, on 24 November 2020, Firm Y applied to the Authority for authorisation. This was also the same day as NWUS submitted the Application to the Authority. Mr Bennett is the sole director and shareholder of Firm Y. Firm Y applied to carry on the same regulated activities as those applied for by NWUS in the Application. Mr Bennett was similarly named as the proposed candidate to perform the SMF29 Limited Scope function in Firm Y's application.
20. In the course of assessing Firm Y's application, the Authority identified that Firm Y appeared to be in breach of section 24 of the Act, by making false claims to be authorised by the Authority. On its website, Firm Y published a disclosure statement which included a Firm Reference Number (the reference number allocated to regulated entities) belonging to Firm X. Firm Y also adopted an identical trading name to Firm X.
21. As such, the Authority considered the statement published by Firm Y to be wilfully misleading to its consumers. Firm Y removed the statement from its website in February 2021, following its communications with the Authority. However, Firm Y did not offer any explanation in relation to the Authority's concerns regarding the removal of Firm X from the third-party finance provider's panel.
22. On 22 April 2021, following an assessment of Firm Y's Part 4A application, the Authority decided to issue a warning notice to Firm Y proposing to refuse the application in light of concerns as to the firm's suitability and the same concerns relating to Mr Bennett and Firm X that are outlined above.
23. On 5 May 2021, after receiving its warning notice, Firm Y withdrew its application for Part 4A permission.
24. The Authority notes that in the Application, it was stated that NWUS intended to adopt Firm Y's registered company name as a trading name. The Application also stated that NWUS also intended to adopt a trading name used by both Firm X and Firm Y. The Authority considers these statements demonstrate the connected nature of NWUS, Firm X and Firm Y, with the common factor being Mr Bennett and his continued involvement in all three companies.
25. There was no reference made to any relationship between Firm X, Firm Y and NWUS in the Application, notwithstanding the identical trading names shared between the three companies.

## **IMPACT ON THE THRESHOLD CONDITIONS**

26. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
27. In light of the facts and matters set out above and for the reasons set out above and below, the Authority considers that it cannot ensure that NWUS will satisfy, at the point of authorisation, threshold condition 2E (suitability).
28. In order to satisfy threshold condition 2E (suitability), a firm must be fit and proper having regard to all of the circumstances, including the need for those who manage the firm's affairs have adequate skills and experience and act with probity. COND 2.5.4G sets out examples of the kind of considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, threshold condition 2E. These include whether the firm: (i) conducts, or will

conduct, its business with integrity and in compliance with proper standards; (ii) has, or will have, a competent and prudent management; and (iii) can demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.

29. In view of the above concerns regarding Mr Bennett, who as the firm's proposed candidate to perform the SMF 29 Limited Scope function would be involved in NWUS's affairs in respect of its regulated activities, the Authority considers it cannot ensure that those who manage NWUS's affairs have adequate skills and experience, and will act with probity.
30. The Authority recognises that its concerns relate to Mr Bennett's involvement at NWUS and that he is no longer a director or shareholder of the firm. However, Mr Bennett remains NWUS's candidate to perform the SMF29 Limited Scope function, and the Authority is concerned that in view of the connections between NWUS, Firm X and Firm Y that are described above, Mr Bennett will continue to exercise control and influence in the management of NWUS's affairs. The Authority considers that these connections are further exemplified by the timing of Mr Bennett's resignation from his position as director and shareholder of NWUS on 24 February 2021. This was eight days after the Authority informed Firm Y of its intention to refuse Firm Y's application for Part 4A permission.
31. Given the concerns outlined above, it does not appear to the Authority that NWUS will satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which NWUS would have permission if the Application was granted.

## **PROCEDURAL MATTERS**

### **Important Notices**

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

### **Publication**

33. 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.
34. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority contacts**

35. For more information concerning this matter generally, contact Emily Pinkerton, Manager, Credit & Lending Department at the Authority (direct line: 020 7066 1450 / email: [Emily.Pinkerton@fca.org.uk](mailto:Emily.Pinkerton@fca.org.uk)).

## **Executive Decision Maker**

## **ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS WARNING 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 to 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**

#### *Guidance on the Threshold Conditions (“COND”)*

4. In exercising its powers in relation to the granting of a Part 4A permission, the Authority has regard to guidance published in the Authority’s Handbook, including the part entitled ‘Threshold Conditions’ (“COND”). This sets out the minimum standard for being and remaining authorised.
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. Under COND 1.3.3AG, 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.
8. COND 1.3.3CG provides that, when assessing the threshold conditions, the Authority may have regard to any person appearing to be, or likely to be, in a relevant relationship with the firm, in accordance with section 55R of the Act

(Persons connected with an applicant). For example, a firm's controllers, its directors or partners, other persons with close links to the firm (see COND 2.3), and other persons that exert influence on the firm which might pose a risk to the firm's satisfaction of the threshold conditions, would be in a relevant relationship with the firm.

#### Threshold condition 2E: Suitability

9. 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 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.
10. COND 2.5.3G(1) states that the emphasis of threshold condition 2E is on the suitability of the firm itself. The suitability of each person who performs a controlled function will be assessed by the Authority and/or the PRA, as appropriate, under the approved persons regime (see SUP 10 (Approved persons) and FIT). In certain circumstances, however, 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.
11. COND 2.5.4G(2) 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:
  - (a) conducts, or will conduct, its business with integrity and in compliance with proper standards;
  - (b) has, or will have, a competent and prudent management; and
  - (c) can demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.
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 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.