



Financial Conduct Authority
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FINAL NOTICE

To: **Phillip Whiffin**

Address: **Unit 1-2, Oakwood Industrial Estate
Stonebridge Road
Northfleet
Gravesend
Kent DA11 9DT**

FRN: **656045**

Dated: **16 November 2016**

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Mr Whiffin.
2. The Authority gave Mr Whiffin the Decision Notice, which notified Mr Whiffin that, for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel Mr Whiffin's Part 4A permission.
3. Mr Whiffin 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 Whiffin's Part 4A permission.

DEFINITIONS

5. The definitions below are used in this Final Notice (and in the Annex):

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

“the Authority” means the Financial Conduct Authority;

“the Decision Notice” means the Decision Notice issued to Mr Whiffin on 11 October 2016;

“EG” means the Authority’s Enforcement Guide;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“Mr Whiffin’s Part 4A permission” means the permission granted by the Authority to Mr Whiffin pursuant to Part 4A of the Act;

“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;

“SUP” means the Supervision Manual, part of the Handbook;

“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 issued to Mr Whiffin on 16 September 2016.

RELEVANT STATUTORY PROVISIONS

6. The statutory and regulatory provisions relevant to this Final 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, and in the Decision Notice, it appears to the Authority that Mr Whiffin is failing to satisfy the suitability Threshold Condition, in that the Authority is not satisfied that Mr Whiffin is a fit and proper person having regard to all the circumstances.
8. In particular, Mr Whiffin has failed to notify the Authority of a change in the address and telephone number of his principal place of business and has failed to deal openly and co-operatively with the Authority (in not providing up-to-date contact details).

FACTS AND MATTERS

9. Mr Whiffin was authorised by the Authority on 27 January 2015 to conduct consumer credit business.
10. Correspondence sent by the Authority on 27 June 2016 and 1 August 2016 to the email address last notified to the Authority by Mr Whiffin was returned undelivered.

11. Correspondence sent by the Authority on 29 October 2015 and 1 August 2016 to the postal address last notified to the Authority as Mr Whiffin's principal place of business was returned to the Authority with the annotation "addressee gone away" and "addressee unknown" respectively.
12. The Authority attempted to contact Mr Whiffin on 20 July 2016 on the last telephone number Mr Whiffin provided to the Authority. The Authority was unable to connect the call as the telephone number was vacant.
13. Accordingly, it appeared to the Authority that Mr Whiffin had failed to notify the Authority of a change in the address and telephone number for his principal place of business.

FAILINGS

14. As set out in the facts and matters described above, the Authority has made repeated unsuccessful attempts to contact Mr Whiffin using the postal address, email address and telephone number held by the Authority in relation to Mr Whiffin.
15. The Authority has concluded, on the basis of the facts and matters described above, that Mr Whiffin:
 - a. has failed to notify the Authority of a change in the address and telephone number of his principal place of business contrary to SUP 15.5.4R(1) and SUP 15.5.5R(1) respectively;
 - b. has failed to deal openly and co-operatively with the Authority in breach of Principle 11 (Relations with regulators) of the Principles (in not providing up-to-date contact details);
 - c. has not demonstrated that he is ready, willing and organised to comply with the requirements and standards under the regulatory system, namely the requirements in SUP 15.5.4R(1) and SUP 15.5.5R(1) to give the Authority reasonable advance notice of a change in his principal place of business and telephone number, and the date of the change;
 - d. has therefore failed to satisfy the Authority that his business is being managed in such a way as to ensure that his affairs will be conducted in a sound and prudent manner or that he is a fit and proper person having regard to all the circumstances; and
 - e. is therefore failing to satisfy the suitability Threshold Condition in relation to his permitted regulated activities,

and accordingly, Mr Whiffin's Part 4A permission should be cancelled.

DECISION MAKER

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

IMPORTANT

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

Publicity

18. The Authority must publish such information about the matters to which this Final 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 information would, in the opinion of the Authority, be unfair to Mr Whiffin or prejudicial to the interests of consumers.
19. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority Contact

20. For more information concerning this matter generally, Mr Whiffin should contact Dilip Vekariya at the Authority (direct line: 0207 066 5520).

John Kirby
Enforcement and Market Oversight Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. Section 55J(1) of the Act provides that the Authority may cancel a firm's Part 4A permission where, amongst other things—

“it appears to the [Authority] that—

- (a) [the firm] is failing, or is likely to fail, to satisfy the threshold conditions ...;

[...]. ”

2. The suitability Threshold Condition provides:

“[The firm] must be a fit and proper person having regard to all the circumstances, including—

[...]

- (d) whether [the firm] has complied and is complying with requirements imposed by the [Authority] in the exercise of its functions, or requests made by the [Authority], relating to the provision of information to the [Authority] and, where [the firm] has so complied or is so complying, the manner of that compliance;

[...]

- (f) whether [the firm's] business is being, or is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner;

[...].”

RELEVANT HANDBOOK PROVISIONS

3. In exercising its power to cancel a Part 4A permission, the Authority must have regard to guidance published in the Handbook and in Regulatory Guides, such as EG. The relevant main considerations in relation to the action specified above are set out below.

Relevant Principle

4. Principle 11 (Relations with regulators) of the Principles (PRIN 2.1.1R) provides:

“A *firm* must deal with [the Authority] in an open and cooperative way, and must disclose to [the Authority] appropriately anything relating to the *firm* of which [the Authority] would reasonably expect notice.”

Relevant Rules

5. SUP 15.5.4R provides:

“A *firm* must give the [Authority] reasonable advance notice of a change in any of the following addresses, and give details of the new address and the date of the change:

- (1) the *firm's* principal place of business in the *United Kingdom*;

[...].”

6. SUP 15.5.5R provides:

“A *firm* must give the [Authority] reasonable advance notice of a change in any of the following telephone numbers, and give details of the new telephone number and the date of the change:

- (1) the number of the *firm’s* principal place of business in the *United Kingdom*;

[...].”

Guidance concerning the suitability Threshold Condition

7. Guidance on the suitability Threshold Condition is set out in COND.
8. COND 2.5.2G states that the Authority will take into consideration anything that could influence a firm’s continuing ability to satisfy the suitability Threshold Condition.
9. COND 2.5.6G states 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, the suitability Threshold Condition include 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
 - the firm has contravened, amongst other things, the provisions of the regulatory system, which include the Principles and other rules (COND 2.5.6G(4)).

OTHER RELEVANT REGULATORY PROVISIONS

10. The Authority’s policy in relation to its enforcement powers is set out in EG, certain provisions of which are summarised below.

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

11. EG 8.1.1(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.
12. EG 8.5.1(1) states that the Authority will consider cancelling a firm’s Part 4A permission using its own initiative power 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.
13. EG 8.5.2 provides examples of the types of circumstances in which the Authority may cancel a firm’s Part 4A permission. One such example is the failure to provide the Authority with valid contact details or failure to maintain the details provided, such that the Authority is unable to communicate with the firm (EG 8.5.2(6)).