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## FINAL NOTICE

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**The Directors  
Risk Free Claims Management Ltd  
85 High Street  
West Bromwich  
B70 6NZ**

1 September 2020

### **ACTION**

1. By an application dated 24 July 2019 (“the Application”), Risk Free Claims Management Ltd (“Risk Free Claims”) 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. seeking out, referrals and identification of claims or potential claims (personal injury claim; financial services or financial product claim; housing disrepair claim; claim for a specified benefit; criminal injury claim; employment related claim);
  - c. advice, investigation or representation in relation to a financial services or financial product claim;
  - d. advice, investigation or representation in relation to a personal injury claim; and
  - e. advice, investigation or representation in relation to a criminal injury claim.

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 dated 14 February 2020, the Authority gave notice that it proposed to refuse the Application and that Risk Free Claims was entitled to make representations to the Authority about that proposed action.
5. As no representations were received by the Authority from Risk Free Claims 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 dated 25 June 2020, the Authority gave Risk Free Claims notice that it had decided to take the action described above.
7. Risk Free Claims 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.
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 Risk Free Claims a final notice of its refusal.
9. Risk Free Claims 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 a twelve-week period and the last three requests included a statement to the effect that Risk Free Claims must contact the Authority, or the Authority would recommend to the Authority's Regulatory Transactions Committee that Risk Free Claims receive a Warning Notice.
10. 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 Risk Free Claims satisfies, and will continue to satisfy, the threshold conditions for which the Authority is responsible.
11. 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 Risk Free Claims would fail to do so if the Application were to be granted.
12. The failure to provide the information means that the Authority cannot ensure that Risk Free Claims will satisfy, and continue to satisfy, the threshold conditions for which the Authority is responsible, in relation to all the regulated activities for which Risk Free Claims would have permission. In particular, the Authority cannot ensure that Risk Free Claims:
  - a. can be effectively supervised by the Authority as required by threshold condition 2C (Effective supervision);

- b. has appropriate human resources, given Risk Free Claims' failure to provide the Authority with the requested information as required by threshold condition 2D (Appropriate resources); and
- c. will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E (Suitability).

## **DEFINITIONS**

13. 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

"CMCOB" means the Claims Management: Conduct of Business section of the Authority's handbook

"the Decision Notice" means the Decision Notice dated 25 June 2020 given to Risk Free Claims by the Authority

"the RTC" means the Authority's Regulatory Transactions Committee

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

"the Warning Notice" means the Warning Notice dated 14 February 2020 given to Risk Free Claims by the Authority

## **FACTS AND MATTERS**

14. The Application was received by the Authority on 24 July 2019.

15. Further information was requested from Risk Free Claims under section 55U(5) of the Act.

16. Details of all relevant communications between the Authority and Risk Free Claims are set out below.

17. Between 21 August 2019 and 11 November 2019, the Authority sent Risk Free Claims two emails and three letters in an attempt to elicit information from Risk Free Claims that would assist the Authority in determining the Application.

18. On 21 August 2019, the Authority sent an email to Risk Free Claims requesting that Risk Free Claims provide the following information (the "Outstanding Information") in support of the Application by 4 September 2019:

- a. Business Plan
  - b. Opening balance sheet
  - c. Closing balance sheet for the first 12 months
  - d. Cash flow statement for the first 12 months
  - e. Profit & Loss statement for the first 12 months
  - f. Annual / management accounts
  - g. Prudential resources requirement
  - h. Compliance Procedures document
  - i. Compliance Monitoring document
  - j. Systems and controls document
  - k. Vulnerable consumers procedures
  - l. Evidence of how Risk Free Claims would meet the Prudential resources requirement
  - m. The Individual form
19. Risk Free Claims failed to provide the Outstanding Information by 4 September 2019.
20. On 11 September 2019, the Authority emailed Risk Free Claims, requesting that Risk Free Claims provide the Outstanding Information in support of the application by 18 September 2019.
21. Risk Free Claims failed to respond by 18 September 2019 with the Outstanding Information.
22. On 11 October 2019, the Authority sent a letter to Risk Free Claims under cover of an email, noting the lack of response to its request for the information on 21 August 2019 and 11 September 2019, and informing it that a failure to provide the information would result in the Application being determined based upon the information received to date and that this might result in a recommendation to the RTC that it issue Risk Free Claims with a Warning Notice proposing to refuse the Application. Risk Free Claims failed to provide the Outstanding Information by 25 October 2019 (i.e. within 14 days).
23. On 28 October 2019, the Authority sent a letter to Risk Free Claims by way of email and recorded delivery, noting the lack of a response to its request for information on 21 August 2019, 11 September and 11 October 2019, informing it that a failure to provide the information would result in the Application being determined based upon the information received to date and that this might result in a recommendation to the RTC that it issue Risk Free Claims with a Warning Notice proposing to refuse the Application. Risk Free Claims failed to provide the Outstanding Information by the stated deadline of 9 November 2019 (i.e. within 14 days).

24. On 11 November, the Authority sent a letter to Risk Free Claims by way of email and recorded delivery, noting the lack of a response to its requests for the information on 21 August 2019, 11 September 2019, 11 October 2019 and 25 October 2019, and informing it that a failure to provide the information would result in the Application being determined based upon the information received to date and that this might result in a recommendation to the RTC that it issue Risk Free Claims with a Warning Notice proposing to refuse the Application. Risk Free Claims failed to provide the Outstanding Information by the stated deadline of 25 November 2019.

## **IMPACT ON THRESHOLD CONDITIONS**

25. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
26. Risk Free Claims 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 a 12-week period and included a statement to the effect that Risk Free Claims must contact the Authority, or the Authority would recommend to the RTC that Risk Free Claims receives 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 Risk Free Claims satisfies, and will continue to satisfy, the threshold conditions for which the Authority is responsible.
28. 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 Risk Free Claims would fail to do so if the Application were to be granted.
29. The failure to provide the information means that the Authority cannot ensure that Risk Free Claims:
- a. can be effectively supervised by the Authority as required by threshold condition 2C (Effective supervision);
  - b. has appropriate human resources, given Risk Free Claims' failure to provide the Authority with the requested information as required by threshold condition 2D (Appropriate resources); and
  - c. will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E (Suitability).

## **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 Mike Baker, Manager, Claims Management Companies Department at the Authority (direct line: 020 7066 1026 /email: [mike.baker@fca.org.uk](mailto:mike.baker@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 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.