
FINAL NOTICE

The Directors
Safe Claims Limited
Office 24
8-9 Rodney Road
Portsmouth
PO4 8BF

6 July 2021

ACTION

1. By an application dated 31 May 2019 (“the Application”), Safe Claims Limited (“Safe Claims”) applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of:
 - i. 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); and
 - ii. Advice, investigation or representation in relation to a financial services or financial product claim.
2. The Application is complete but further information has been requested in relation to Safe Claim’s lack of management and communication whilst the director was absent and SMCR documents to assist the Authority in determining the Application.
3. For the reasons listed below, the Authority has decided to refuse the Application.

SUMMARY OF REASONS

4. By its Warning Notice dated 17 March 2021, the Authority gave notice that it proposed to refuse the Application and that Safe Claims was entitled to make representations to the Authority about that proposed action.

5. As no representations were received by the Authority from Safe 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 11 May 2021, the Authority gave Safe Claims notice that it had decided to take the action described above.
7. Safe 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 Safe Claims a Final Notice of its refusal.
9. Safe Claims has failed to respond to 14 requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined. The last request included a statement to the effect that Safe Claims must contact the Authority within 10 business days, or the Authority would recommend to the Authority's RTC that Safe Claims receive a Warning Notice. No response was received.
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 Safe Claims satisfies, and will continue to satisfy, the threshold conditions.
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 Safe Claims would fail to do so if the Application were to be granted.
12. The failure to provide the information raises concerns as to whether Safe Claims:
 - a. can be effectively supervised by the Authority as required by threshold condition 2C (Effective Supervision);
 - b. has appropriate human resources, given Safe 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 Decision 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;

"the Decision Notice" means the decision notice dated 11 May 2021 given to Safe Claims by the Authority;

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

"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); and

"the Warning Notice" means the warning notice dated 17 March 2021 given to Safe Claims by the Authority.

FACTS AND MATTERS

14. The Application was received by the Authority on 31 May 2019.
15. Further information was requested from Safe Claims under section 55U(5) of the Act.
16. On 6 September 2019, the Authority sent an email to Safe Claims requesting that Safe Claims provide the following information in support of the Application by 20 September 2019:
 - i. Trading names information.
 - ii. Client journey and consent information.
 - iii. Financial resources information including:
 - i. Worked calculation of how Safe Claims meets its Prudential Resources Requirement;
 - ii. Details of the assumptions underpinning Safe Claims' cash flow and profit/loss forecast figures; and
 - iii. Details of Safe Claims' revenue split per product/service.
 - iv. Organisation chart.
 - v. Referral Scheme information.
 - vi. Answers to questions 5.11(d) and 5.17 in the Individual Form (TIF Form) which is used to assess the appropriate resources and suitability in relation to individuals responsible for the management of a CMC.
17. On 20 September 2019, Safe Claims responded to the Authority's request for information sent on 6 September 2019. Safe Claims provided all the information requested at paragraphs 16(i) – (vi) above, apart from the information requested at paragraph 16(v), namely a spreadsheet of all the referrals made over the last 6 months.

18. On 24 September 2019, the Authority requested that Safe Claims provide a spreadsheet of all referrals made over the last 6 months. Safe Claims provided this information on 24 September 2019.
19. On 26 September 2019, the Authority emailed Safe Claims requesting that it amend its website in order to comply with the rules on financial promotions.
20. On 27 September 2019, the Authority emailed Safe Claims seeking to arrange a time to discuss the Application. Safe Claims did not respond.
21. On 1 October 2019, the Authority sent an email to Safe Claims requesting that Safe Claims provide the following information in support of the Application by 4 October 2019:
 - i. SMCR supporting documentation; and
 - ii. A Statement of Responsibilities.
22. On 16 October 2019, Safe Claims' director called the Authority and stated that she had been out of the office because she was receiving treatment for a medical condition. The director provided the Authority with the name of an alternative member of staff to speak to in her absence.
23. On 18 October 2019, the Authority emailed Safe Claims stating it needed to amend its website as it did not comply with financial promotions rules.
24. On 19 November 2019, Safe Claims emailed the Authority stating the changes requested by the Authority on 18 October 2019 had been made.
25. On 26 November 2019, the Authority emailed Safe Claims seeking to arrange a time for the Authority to speak to Safe Claims. Safe Claims did not respond.
26. On 5 December 2019, the Authority emailed Safe Claims requesting amendments to its website in order to comply with financial promotions rules and requested information relating to Safe Claims' business plan by 19 December 2019. This included information on Safe Claims' qualifications and experience to process mis-sold mortgage claims and its plans on expanding to customers who speak Romanian, Bulgarian and Hungarian. Safe Claims did not respond by the deadline.
27. On 20 December 2019, the Authority emailed Safe Claims requesting a response to the request made on 5 December 2019 by 3 January 2020. Safe Claims did not respond by the deadline.
28. On 10 January 2020, Safe Claims provided a response to the request made on 20 December 2019, however this response was not received on this date but was forwarded on to the Authority on 5 March 2020.
29. On 28 January 2020, the Authority sent a letter to Safe Claims by email, noting the lack of response to its previous information requests on 5 December 2019 and 20 December 2019 and informing Safe Claims that a failure to provide the information by 11 February 2020 would result in the Application being determined based upon the information received to date and that might result in a recommendation to the RTC

that it give Safe Claims a Warning Notice proposing to refuse the Application. Safe Claims failed to provide the information by 11 February 2020.

30. On 27 February 2020, the Authority sent a second letter to Safe Claims by email and recorded delivery, noting the lack of response to its previous information requests on 5 December 2019 and 20 December 2019 and informing Safe Claims that a failure to provide the information by 12 March 2020 would result in the Application being determined based upon the information received to date and that might result in a recommendation to the RTC that it give Safe Claims a Warning Notice proposing to refuse the Application. Safe Claims was given ten business days to provide the information requested. It had attempted to provide a response on 10 January 2020 but the Authority received the response on 5 March 2020. Safe Claims stated that the amendments to its website had been made in relation to financial promotions. Safe Claims also provided some comments on its business plan with regards to its work on mis-sold mortgage claims and expansion to customers who speak Romanian, Bulgarian and Hungarian.
31. On 10 March 2020, the Authority sent a further email to Safe Claims stating its response was not substantive. The Authority requested the following:
 - i. further amendments to Safe Claims' website in order to comply with financial promotions rules;
 - ii. further information in relation to Safe Claims' work on mis-sold mortgage claims in its business plan; and
 - iii. SMCR supporting documentation and a Statement of Responsibilities.
32. On 13 March 2020, Safe Claims responded stating that the amendments to its website had been completed and clarified its position on its work on mis-sold mortgage claims in its business plan. Safe Claims stated that it would provide SMCR supporting documentation and a Statement of Responsibilities in a separate email. The Authority replied on the same day seeking confirmation by 27 March 2020 as to how it could be satisfied going forwards that Safe Claims would respond promptly to the Authority's requests for information. Safe Claims did not respond by the deadline.
33. On 6 April 2020, the Authority emailed Safe Claims noting that Safe Claims had not responded to its email dated 13 March 2020. The Authority requested that Safe Claims contact the Authority by 11 April 2020.
34. On 19 June 2020, the Authority attempted to call Safe Claims but the call was not answered and so the Authority sent a further email to Safe Claims noting that it had still not responded to its email dated 13 March 2020. The Authority requested that Safe Claims respond by 27 June 2020. Safe Claims did not respond to the email.
35. On 26 June 2020, the Authority attempted to call Safe Claims but the call was not answered.
36. On 7 July 2020, the Authority attempted to call Safe Claims but the call was not answered and a voicemail message was left asking Safe Claims to contact the Authority.

37. On 14 July 2020, the Authority sent a letter to Safe Claims by email and recorded delivery, noting the lack of response to its previous information requests on 13 March 2020, 6 April 2020 and 19 June 2020 and informing Safe Claims that a failure to provide the outstanding information by 28 July 2020 would result in the Application being determined based upon the information received to date and that might result in a recommendation to the RTC that it give Safe Claims a Warning Notice proposing to refuse the Application.
38. Safe Claims failed to provide the outstanding information by 28 July 2020.
39. Between 25 November 2020 and 11 January 2021, the Authority attempted to contact Safe Claims' director to confirm that the director had recovered from the treatment mentioned at paragraph 22 and that Safe Claims still intended to pursue the Application. During this period, the Authority sent Safe Claims 7 emails and made 8 calls to ascertain this information. On 2 December 2020, the Authority managed to contact Safe Claims' director by telephone and on that call the director confirmed that she was in good health and indicated that Safe Claims would look to withdraw the Application due to issues with Safe Claims' business. On 10 December 2020, Safe Claims requested further guidance on winding down the business. Despite the Authority providing this guidance, the Authority did not receive confirmation from Safe Claims as to whether it would be progressing or withdrawing the Application. Safe Claims failed to respond to four further attempted communications to confirm its position.

IMPACT ON THRESHOLD CONDITIONS

40. The regulatory provisions relevant to this Decision Notice are referred to in Annex A.
41. Safe Claims has failed to respond to 14 separate requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined. The final request gave Safe Claims 10 business days to respond, and included a statement to the effect that Safe Claims must contact the Authority, or the Authority would recommend to the RTC that Safe Claims receives a Warning Notice.
42. 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 Safe Claims satisfies, and will continue to satisfy, the threshold conditions.
43. 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 Safe Claims would fail to do so if the Application were to be granted.
44. The failure to provide the information raises concerns as to whether Safe Claims:
 - a. can be effectively supervised by the Authority as required by threshold condition 2C;
 - b. has appropriate human resources, given Safe Claims' failure to provide the Authority with the requested information as required by threshold condition 2D; and
 - c. will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E.

IMPORTANT NOTICES

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

Publication

46. 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.

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

Authority contacts

48. For more information concerning this matter generally, contact Tina Archer, Manager, Claims Management Department at the Authority (direct line: 020 7066 9188 / email: tina.archer@fca.org.uk).

Karen Avis
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 entitled 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)(a) 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.