
FINAL NOTICE

**The Directors
Sultan Exchange Ltd,
Office 29, 203-205 The Vale
London
W3 7QS**

21 July 2020

ACTION

1. By an application dated 30 April 2019 (the "Application") Sultan Exchange Ltd. ("Sultan") applied under Regulation 13 of the Payment Services Regulations 2017 (the "PSRs") for registration as a small payment institution and to perform the payment service of money remittance.
2. The Application was incomplete.
3. For the reasons set out below the Authority has refused the Application.

SUMMARY OF REASONS

4. By its Warning Notice dated 29 April 2020 ("the Warning Notice") issued pursuant to Regulation 9(7) of the PSRs (as modified by Regulation 15), the Authority gave notice that it proposed to refuse the Application and that Sultan was entitled to make representations to the Authority about that proposed action.
5. No representations were received by the Authority from Sultan within the time allowed by the Warning Notice. Therefore, 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. Sultan has failed to provide the information required by the Authority, including further information that the Authority considered necessary to determine the application pursuant to Regulation 14(2). Therefore, the Authority has concluded that it cannot ensure that Sultan satisfies and will continue to satisfy the conditions for registration as a small payment institution ("SPI") set out in Regulation 14 of the PSRs 2017.
7. By its Decision Notice dated 5 June 2020, the Authority gave Sultan notice that it had decided to refuse the Application.
8. Sultan had 28 days from the date of the Decision Notice to refer the matter to the Upper Tribunal, but did not do so.
9. Under section 390(1) of the Act (which applies by reason of paragraph 10 of Schedule 6, Part 1 of the PSRs 2017), the Authority, having decided to refuse the Application and there having been no reference of that decision to the Tribunal, must give Sultan this Final Notice of its refusal.

DEFINITIONS

10. The definitions below are used in this Final Notice.

"the Act" means the Financial Services and Markets Act 2000 (as modified and applied by the PSRs)

"the Application" means the application submitted by Sultan Exchange Ltd. on 30 April 2019

"the Authority" means the Financial Conduct Authority

"SPI" means a Small Payment Institution

"the PSRs" means the Payment Services Regulations 2017

"the Warning Notice" means the Warning notice dated 28 April 2020 given to Sultan by the Authority

"the RTC" means the Regulatory Transactions Committee

"the RDC" means the Regulatory Decisions Committee

"the Decision Notice" means the Decision Notice dated 5 June 2020 given to Sultan by the Authority

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

FACTS AND MATTERS

11. The Application for registration as a small payment institution, made under the PSRs, was received on 30 April 2019.

12. Further information was requested from Sultan to complete the Application but Sultan has not responded. Details of all the communications between the Authority and Sultan are set out below:
13. On 30 May 2019, an email was received from Sultan asking for a reference no. to apply for their MLR registration with Her Majesty's Revenue and Customs (HMRC).
14. On 10 June 2019, Sultan requested an update on case officer allocation.
15. On 11 July 2019, The Authority sent an email to Sultan advising Sultan of the case officer assessing their application.
16. On 17 July 2019, the Authority sent a further email to Sultan (copying in the appointed compliance professional) requesting further information to progress the application. Details of the information requested are set out below:
 - Details of the director's experience and knowledge to operate a payment institution, along with details of his previous employment.
 - An explanation of the gap in employment between April 2017 and June 2018 for the director.
 - Proof of the director's home address.
 - Further details of Sultan's intended business and how it will work e.g. flow of funds. Also requested further detail on activities as additional permission may have been required.
 - Thanking Sultan for HRMC registration.
 - Details of Sultan's Anti Money Laundering procedures.
 - Details of how Sultan would manage complaints and their understanding of rules.
 - Details of Sultan's incident reporting process.
 - Details of what statistical data Sultan would collect and how.
 - Evidence of Sultan's readiness to commence business.
 - A completed Controller form.
17. On 26 July 2019, the authority received an email from Sultan's appointed compliance professional providing some of the information requested on the 17th July and informing the authority that Sultan's director was also abroad on annual leave. Details of the information provided by Sultan's compliance consultant are set out below:
 - Sultan's controller form;
 - details of Sultan's Anti Money Laundering policy;
 - an outline of how the business will operate using the 'we will' pronoun;
 - clarification of some of the statements made in the application including that the business intended to do nothing more than money remittance;
 - confirmation that they had advised Sultan and that Sultan had confirmed it understood the new complaint rules;
 - further details of Sultan's policy on major incident reporting and explained what will be collected for statistical data on fraud;
 - further details on the system software that Sultan would utilise;
 - A new address for the company: Office 29, 203-205 The Vale, London, England, W3 7QS;
 - and they further stated that Sultan's Director would respond to the remaining points when they were back in the UK.

18. A follow up call to discuss the outstanding information was attempted on the same date but contact was not made.
19. On 8 August 2019, an email was sent to Sultan (copying in the appointed compliance professional) informing them that we expected Sultan to provide responses to our queries and requesting the remaining outstanding information be supplied by Sultan. We also informed Sultan that the qualifying holding form supplied was blank.
20. By this stage the Authority's system had been updated to reflect the receipt of the completed qualifying holding form.
21. On 13 August 2019, a follow-up request was made recapping the information still required from Sultan and its director. An extension was granted for the provision of this information [27 August] owing to the director being on annual leave. Details of the information requested are set out below
 - Clarification on the nature of the business carried out by the director's previous employers showing how this provides the director with the relevant knowledge and experience for his role at Sultan
 - Explanation for employment gap between April 2017 and June 2018;
 - Evidence/Proof of living at their current home address; and
 - Confirmation of Sultan's Money Laundering Regulations (MLR) registration.
22. On 28 August 2019, a further follow-up email was sent reiterating the outstanding information and explaining that the Authority had tried to call the mobile numbers of Sultan and the professional adviser but both numbers appeared to indicate they were not in use (Sultan's number appeared to be unavailable and a message on the advisor's number stated, 'the mobile number you have called is currently unavailable') and requested advice on how they might be contacted.
23. On 31 August, an email was received from his advisor stating, "We could not contact him as his phone line had been disconnected and we are waiting for him to contact us." Plus requesting more time and advising that he was now on holiday until 6 October 2019.
24. On 2 September 2019, the Authority sent an email advising what we meant by being "ready, willing and organised" and setting out our expectations.
25. On 8 October 2019, the Authority sent a letter under cover of an email, noting the lack of a response to its request for 'outstanding information' and informing it that a failure to provide the outstanding 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 Sultan with a Warning Notice proposing to refuse the Application. No response was received to this correspondence by the stated deadline of 22 October 2019.
26. On 18 November 2019, the Authority sent a letter to Sultan by way of an email and recorded delivery, noting the lack of a response to its request for the Outstanding Information on multiple previous attempts 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 Sultan with a Warning Notice proposing to refuse the Application. No response was received to this correspondence by the stated deadline of 28 November 2019.

27. On 17 January 2020, the Authority sent a letter to Sultan by way of an email and recorded delivery, noting the lack of a response to its request for the outstanding information on multiple previous attempts 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 Sultan with a Warning Notice proposing to refuse the Application. No response was received to this correspondence by the stated deadline of 24 January 2020.
28. An alternative address which had been provided by the compliance professional appointed was identified. On 6 February 2020, the Authority sent a letter to Sultan by way of an email and post (recorded delivery), noting the lack of a response to its requests for the outstanding information on multiple previous occasions 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 Sultan with a Warning Notice proposing to refuse the Application. No response was received to this correspondence by the stated deadline of 20 February 2020.
29. On 6 February 2020, further checks were carried out in an attempt to make contact or obtain alternative contact details for Sultan and to understand the non-contact issue:
- An attempt to call Sultan via skype was unsuccessful and showed the number called to be 'is unavailable or maybe offline'.
 - An attempt to contact the appointed compliance consultant indicated that the number had been disconnected.
 - Internet searches for the company and director including companies house records proved unproductive.
 - A Technical Specialist at the Authority also sent an email to the firm and its appointed professional but failed to obtain a response.
30. On 10 March 2020, having received no response to this correspondence, the Authority sent a further email attaching a letter to Sultan and his appointed compliance advisor requesting a response by 25 March 2020. This communication drew attention to the lack of a response to requests for the outstanding information and informing them that the failure to provide this information would now 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 Sultan with a Warning Notice proposing to refuse the Application. This letter was also sent by special delivery to Sultan's last known address (Sultan Exchange Ltd., Office 29, 203-205 The Vale, London, W3 7QS), on 11 March 2020.
31. To date, the Authority has not received a response to any of the requests set out above.

CONCLUSIONS

32. Details of the regulations and the Authority's guidance relevant to this Notice are set out in Annex A.
33. Pursuant to Regulation 14(1) of the PSRs, the Authority may refuse to register an applicant as an SPI only if any of the conditions in paragraphs (2) – (11) of Regulation 14 are not met. This includes the need for applications to comply with any requirement imposed under Regulations 13 and 20, as set out under Regulation 14(2).

34. The Authority is of the view that Regulation 14(2) has not been met, on the basis that the Authority has not been provided with sufficient information in relation to those matters.
35. By not providing the material information requested in the application form Sultan Exchange Ltd has not provided the information as directed in Regulation 13(1).
36. By not providing a response to the Authority's questions about previous commercial agreements, Sultan Exchange Ltd has not provided requested information a directed by Regulation 13(4).
37. Sultan Exchange Ltd has not provided information as directed by the Authority in his application form for registration. This has meant that the Authority is unable to determine whether Sultan Exchange Ltd., can meet the conditions of registration.
38. Accordingly, the Authority has refused the Application.

IMPORTANT NOTICES

39. This Final Notice is given to Sultan Exchange Ltd under section 390(1) of the Act (as applied by paragraph 10 of Schedule 6, Part 1 of the PSRs 2017).

Publication

40. By reason of paragraph 10 of Schedule 6, Part 1 of the PSRs 2017, sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the Authority must publish such information about the matter 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 publication would, in the opinion of the Authority, be unfair to Sultan Exchange Ltd or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
41. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

42. For more information concerning this matter generally, contact James O'Connell at the FCA (direct line: 020 7066 0328/ email: james.oconnell@fca.org.uk).



Karen Avis
on behalf of the Regulatory Transactions Committee

ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS DECISION NOTICE

Relevant Statutory Provisions

The Payment Services Regulations 2017

1. Regulation 9(2) (as applied by Regulation 15 to applications for registration as an SPI) provides that “The FCA may determine an incomplete application if it considers it appropriate to do so, and it must in any event determine any such application within 12 months beginning with the date on which it received the application”.
2. Regulation 9(8)(a) (as applied by Regulation 15 to applications for registration as an SPI) provides that if the Authority “decides to refuse the application or to impose a requirement” it must “give the applicant a decision notice”.
3. Regulation 13(1) provides that an application for registration as an SPI must contain, or be accompanied by, such information as the Authority may reasonably require.
4. Regulation 13(4) states that “At any time after receiving an application and before determining it, the FCA may require the applicant to provide it with such further information as it reasonably considers necessary to enable it to determine the application”.
5. Regulation 14(1) states that the Authority may refuse to register an applicant as an SPI only if any of the conditions set out in paragraphs (2) to (11) is not met.
6. Regulation 14(2) states that the application must comply with the requirements of, and any requirements imposed under, Regulations 13 and 20.
7. Regulation 15 provides for regulations 7 to 12 to apply to registration as an SPI as they apply to authorisation as a payment institution (subject to certain modifications).
8. Schedule 6, Part 1 (10) states that Part 26 of the Act applies save for the modifications detailed.

Relevant Guidance

The FCA’s Payment Services and Electronic Money - Our Approach “The FCA’s role under the Payment Services Regulations 2017 and the Electronic Money Regulations 2011”

9. In exercising its powers in relation to the approval of an application for registration as a small payment institution, the Authority must have regard to guidance published in the Authority’s ‘Our approach’ document, including the section titled ‘Authorisation and registration’. The version of the ‘Our approach’ document current at the date of the application was dated December 2018.
10. The paragraphs relevant to the proposal to refuse the Application are set out below (references to ‘we’ are references to the Authority).

11. Paragraph 3.17: At any time after receiving an application for authorisation or registration (or a variation of either of these) and before determining it, we can require the applicant to provide such further information as we reasonably consider necessary to enable us to determine the application.
12. Paragraphs 3.119-3.147: Outline the information that is required for an application for registration as a small payment institution under the PSRs 2017.
13. Paragraph 3.186: We have to make a decision on a complete application within three months of receiving it. An application is only complete when we have received all the information and evidence needed for us to make a decision. We will let the applicant know if we need more information.
14. Paragraph 3.188: In the case of an incomplete application, we must make a decision within 12 months of receipt. If discussions with the applicant have not resulted in us receiving all the information we need within that 12month period so that the application is incomplete it is likely that the application will be refused. This is because it is unlikely we will have been able to satisfy ourselves that the applicant has met the authorisation/registration requirements.
15. Paragraph 3.194: We can refuse an application when the information and evidence provided does not satisfy the requirements of the PSRs. When this happens we are required to give the applicant a Warning Notice setting out the reason for refusing the application and allowing them 28 days to make a representation on the decision.
16. Paragraph 3.196: If no representations are made, or following them we still decide to refuse the application, we will give the applicant a decision notice. If a firm wishes to contest the decision, they may refer the matter to the Upper Tribunal (Financial Services), an independent judicial body. If no referral has been made within 28 days we will issue a final notice. If the matter is referred to the Tribunal, we will take action in accordance with any directions given by it (including to authorise/register the firm) and will then issue the final notice.
17. Paragraph 3.197: On issuing a final notice, we are required to publish such information about the matter to which a final notice relates as we consider appropriate. We may not, however publish information if we believe it would be unfair to the firm or prejudicial to the interests of consumers