
FINAL NOTICE

Wakefield Motor House Ltd

4 October 2022

ACTION

1. By an application dated 3 November 2021 (“the Application”), (“Wakefield Motor House Ltd” or “the Applicant”) 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. providing credit information services
 - c. exercising or having the right to exercise the owner’s rights and duties under a regulated consumer hire agreement
 - d. entering into regulated consumer hire agreements as owner
2. The Application is incomplete
3. For the reasons listed below the Authority has refused the Application.

SUMMARY OF REASONS

4. Wakefield Motor House Ltd has failed to respond to requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined.
5. The Authority must therefore determine 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 Wakefield Motor House Ltd satisfies, and will continue to satisfy, the threshold conditions.
6. 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 Wakefield Motor House Ltd would fail to do so if the Application were to be granted.
7. The failure to provide the information raises concerns as to whether Wakefield Motor House Ltd:
 - a. can be effectively supervised by the Authority as required by threshold condition 2C;
 - b. has appropriate human resources, given Wakefield Motor House's 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.
8. By its Warning Notice dated 27 June 2022 the Authority gave notice that it proposed to refuse the Application and that Wakefield Motor House Ltd was entitled to make representations to the Authority about that proposed action by 11 July 2022. No response was received.

DEFINITIONS

9. 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 body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;
 - "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; and
 - "the Tribunal" means the Upper Tribunal (Tax & Chancery Chamber).

FACTS AND MATTERS

10. The Application was received by the Authority on 3 November 2021.
11. In the Application the firm stated that:
 - a. It was applying for authorisation so it could engage in the regulated activity of '*entering into consumer hire agreements as owner*'; and
 - b. Its business plan was to act as a seller of vehicles.
12. Firms that sell vehicles do not usually apply for permission to act as the owner under a consumer hire agreement as this activity requires them to retain ownership of the goods (i.e. not to sell them, but to hire them out).
13. To determine why the firm wanted permission to '*enter into consumer hire agreements as owner*' the Authority wrote to the firm (by email) on the 24 February 2022 to ask the firm to explain how it would use the permission it had applied for.
14. The firm did not respond to this email, so a further request was made by email on 4 March 2022.
15. The firm again failed to respond to the email sent on the 4 March. A further email was sent, with the same request, on 17 March 2022.
16. No response was received so further emails were sent on the 8 and 29 April 2022.
17. The firm has therefore not explained why it requires the permission it has applied for.
18. On 11 May 2022, the Authority sent a letter to Wakefield Motor House Ltd by way of email and recorded delivery, noting the lack of a response to its requests for the information 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 the Authority issuing Wakefield Motor House Ltd with a Warning Notice proposing to refuse the Application. Wakefield Motor House Ltd failed to provide the outstanding information by the stated deadline for response.
19. On 9 June 2022, the Authority called the firm by telephone and explained that, because they had not responded to tell us why they needed the permission they had applied for, we were now proposing to recommend that their application was refused. The firm was asked if it wanted to withdraw its application and reapply when it could articulate which permission it needed and why it needed them. The firm asked that we submit our request in writing.
20. On the 10 June, the Authority wrote (by email) to the firm to explain that, if they could not provide the missing information, we would recommend that their application be refused.
21. No response was received and we still do not know why the applicant wants permission to enter into consumer hire agreements as the owner of the goods.

22. A Warning Notice was sent dated 27 June 2022, the Authority gave notice that it proposed to refuse the Application and that Wakefield Motor House Ltd was entitled to make representations to the Authority about that proposed action by 11 July 2022. No response was received.

IMPACT ON THRESHOLD CONDITIONS

23. Wakefield Motor House Ltd has failed to respond to 9 separate requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined.

24. 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 Wakefield Motor House Ltd would fail to do so if the Application were to be granted.

25. The failure to provide the information raises concerns as to whether Wakefield Motor House Ltd:

- a. can be effectively supervised by the Authority as required by threshold condition 2C;
- b. has appropriate human resources, given Wakefield Motor House's 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.

26. On the basis of the facts and matters described above, the Authority cannot ensure that Wakefield Motor House Ltd will satisfy and continue to satisfy the threshold conditions in relation to all of the regulated activities for which Wakefield Motor House Ltd would have permission if the application was granted and accordingly has decided to refuse the application.

IMPORTANT NOTICES

27. This Final Notice is given under section 390 of the Act.

Publication

28. Section 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 a 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.

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

Authority contacts

For more information concerning this matter generally, contact Richard Eager, Manager, Credit and Lending Department at the Authority (direct line: 020 7066 0155 / email: richard.eager@fca.org.uk).

Richard Eager

Manager, Credit and Lending Department

ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS DECISION 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)(c)G 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.