
FINAL NOTICE

WILLS CARS LIMITED
52 Charles Avenue
Eastwood
Nottingham
Nottinghamshire
NG16 2AF

22 September 2021

ACTION

1. By way of an application dated 17 March 2020 ("the Application"), Wills Cars Ltd ("WCL") 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. credit broking
 - c. Exercising/having right to exercise lender's rights and duties under a regulated credit agreement (excluding high-cost short-term credit, bill of sale agreement, and home collected credit agreement
 - d. Exercising or having the right to exercise the owner's rights and duties under a regulated consumer hire agreement
 - e. Entering into regulated credit agreement as Lender (Excluding high-cost short-term credit, bill of sale agreement, and home collected credit agreement)
 - f. 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. By its Warning Notice dated 30 April 2021 the Authority gave notice that it proposed to refuse the Application and that WCL was entitled to make representations to the Authority about that proposed action.
5. No representations have been received by the Authority from WCL 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 apply, 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 9 July 2021, the Authority gave WCL notice that it had decided to take the action described above.
7. WCL had 28 days from the date the Decision Notice was given to refer the matter to the Upper Tribunal. No referral was made to the Upper 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 WCL Final Notice of its refusal.
9. WCL 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. The last request included a statement to the effect that WCL must contact the Authority within 10 business days, or the Authority would recommend to the Authority's Regulatory Transactions Committee ("RTC") that WCL 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 WCL satisfies, and will continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
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 WCL would fail to do so if the Application were to be granted.

The failure to provide the information raised concerns as to whether WCL:

- a. can be effectively supervised by the Authority as required by Threshold Condition 2C;
- b. has appropriate human resources, given WCL'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.

DEFINITIONS

12. 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;

“DBS” check means a Disclosure and Barring Service check;

“the Decision Notice” means the decision notice dated 9 July 2021 given to WCL by the Authority

“the RTC” means the Authority’s Regulatory Transactions Committee;

“the RDC” means the Authority’s Regulatory Decisions 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 30 April 2021 given to the WCL by the Authority.

FACTS AND MATTERS

13. The Application was received by the Authority on 17 March 2020.

14. Further information was requested from WCL under section 55U(5) of the Act.

15. The Authority requested the following information in support of the Application:

16. On 28 May 2020 the Authority emailed WCL asking it to carry out its DBS check and confirm that the DBS check had been completed.

17. On 9 June 2020. The Authority sent an email to WCL reaffirming WCL’s need to carry out its DBS check and confirm that it had been completed by 23 June 2020.

18. On 9 June 2020 the Authority sent a further email querying WCL’s business model and asking for clarification of the permissions applied for, and asking whether WCL would need further permissions of debt adjusting and debt counselling for transactions where WCL may need to arrange to settle outstanding finance on goods being part exchanged or where a balloon payment needed to be settled at the end of a regulated credit agreement. The deadline for a response was 23 June 2020. No response was received.

19. On 24 June 2020 the Authority sent an email to WCL asking whether WCL would supply the outstanding information to the Authority, with a deadline of 8 July 2020. The reminder requested confirmation of whether WCL had carried out its DBS check, querying its business model, and asking for clarification of the permissions applied for. Again, no response was received.

20. On 9 July 2020 the Authority sent an email reminder to WCL asking for the outstanding information requested on 24 June 2020. The Authority also asked for clarification as to whether WCL wished to have appointed representatives as indicated in its application and requested information regarding an outstanding county court judgment. WCL was provided with a deadline of 23 July 2020 to respond. This information was to include:
- a. Confirmation of WCL's business model.
 - b. Confirmation of the permissions required.
 - c. Confirmation of the permissions withdrawn.
 - d. Confirmation that WCL had carried out the approved person's DBS Check.
 - e. Confirmation whether WCL was applying for permission to act as a principal and appoint appointed representatives.
 - f. Confirmation of WCL's Estimated Annual credit income.

WCL failed to respond to this request to provide the outstanding information.

21. On 23 July 2020 the Authority telephoned Mr Kemp of WCL. Mr Kemp explained he had been unwell. On 23 July the Authority sent WCL a follow-up email requesting the outstanding information with a deadline of 6 Aug 2020.
22. On 10 August 2020 the Authority sent WCL an email reminder requesting the outstanding information with a deadline of 24 August 2020. No response was received.
23. On 17 August 2020 the Authority telephoned WCL and explained that the Authority had not received a response and forwarded the email of 10 August 2020 which had a deadline of 24 Aug 2020. WCL failed to respond by 24 August 2020.
24. On 26 August 2020 the Authority emailed WCL attaching a letter requesting the outstanding information by 9 September 2020. The letter informed WCL that a failure to provide the information might result in WCL being issued with a warning notice proposing to refuse the Application. WCL failed to respond by the stated deadline
25. On 10 September 2020 the Authority sent a further letter in similar terms by email and special delivery with a deadline of 24 September 2020. Again, WCL failed to respond by the required deadline.
26. On 29 September 2020, the Authority sent another letter again by email and special delivery to WCL repeating its previous request for the outstanding information. The letter reiterated to WCL that a failure to provide the information might result in WCL being issued with a warning notice proposing to refuse the Application. Again, WCL failed to respond by the deadline of 13 October 2020.
27. On 19 October 2020 the Authority sent an email reminder to WCL setting a further deadline of 26 October 2020. The Authority noted the non-response by WCL and requested WCL to consider withdrawal as it appeared it was not Ready Willing and organised. WCL failed to respond by the deadline of 26 October 2020.

28. On 29 October 2020 the Authority contacted WCL by telephone and left a message requesting WCL to call the Authority. The Authority also sent an email in the same terms. WCL failed to respond to either attempt to contact them.
29. Later that same day the Authority sent WCL a letter by email and special delivery, informing WCL that the requested information remained outstanding and that a failure to provide the information might result in WCL being issued with a warning notice proposing to refuse the Application. The letter provided a deadline of 12 November 2020, which WCL failed to meet.
30. On 6 November 2020 the Authority again sent a further letter maintaining the 12 November 2020 deadline by email and special delivery to WCL demanding the outstanding information and warning WCL that a failure to provide the information might result in WCL being issued with a warning notice proposing to refuse the Application. WCL failed to respond by the deadline.
31. On 3 February 2021 the Authority sent a final letter to WCL by email and special delivery, noting the lack of a response to its previous requests for 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 a recommendation to the RTC that it issue WCL with a warning notice proposing to refuse the Application. WCL failed to provide the outstanding information by the stated deadline of 17 February 2021.

IMPACT ON THRESHOLD CONDITIONS

32. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
33. WCL has failed to respond to 22 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 WCL 10 business days to respond and included a statement to the effect that WCL must contact the Authority, or the Authority would recommend to the RTC that WCL receives a Warning Notice.
34. 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.
35. Having reviewed that information, the Authority cannot ensure that WCL satisfies, and will continue to satisfy, the threshold conditions in relation to the regulated activities for which permissions are sought, the threshold conditions.
36. 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 WCL would fail to do so if the Application were to be granted.
37. The failure to provide the information raises concerns as to whether WCL:
 - a. can be effectively supervised by the Authority as required by Threshold Condition 2C;

- b. has appropriate human resources, given WCL'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.

IMPORTANT NOTICES

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

Publication

- 39. 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.
- 40. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

- 41. For more information concerning this matter generally, contact Emily Pinkerton, Manager, Lending and Intermediaries at the Authority (direct line: 020 7066 1450 / email: emily.pinkerton@fca.org.uk).

Andrew Freeman
Executive Decision Maker on behalf of the Authority

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 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.
8. 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.

Threshold Condition 2C: Effective Supervision

9. 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

10. 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.
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)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.