
FINAL NOTICE

To: **Wise Owl Services Limited (in liquidation)**
Of: **Official Receiver's Office**
Birmingham B
Insolvency Service
4 Cannon House
18 Priory Queensway
Birmingham
B4 6FD

FSA Reference Number: **489361**

Dated: **28 June 2011**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (the "FSA") gives Wise Owl Services Limited (in liquidation) final notice of the cancellation of its Part IV permission

1. ACTION

- 1.1 The FSA gave Wise Owl Services Limited (in liquidation) ("Wise Owl") a Decision Notice on 14 June 2011 which notified it that, for the reasons listed below and pursuant to section 45 of the Financial Services and Markets Act 2000 (the "Act"), the FSA had decided to cancel the permission granted to Wise Owl, pursuant to Part IV of the Act ("Wise Owl's Part IV permission").
- 1.2 Wise Owl has agreed that it will not be referring this matter to the Upper Tribunal (Tax and Chancery Chamber).

- 1.3 Accordingly, for the reasons set out below, the FSA issues this notice cancelling Wise Owl's Part IV permission.

2. REASONS FOR THE ACTION

Summary

- 2.1 The FSA has concluded, on the basis of the facts and matters described below, that Wise Owl is failing to satisfy the threshold conditions set out in Schedule 6 to the Act (the "Threshold Conditions"). This is because, in the opinion of the FSA, Wise Owl's resources are not adequate in relation to the regulated activities it has permission to carry on, and Wise Owl is therefore failing to satisfy Threshold Condition 4 (Adequate resources). Specifically, Wise Owl has failed to meet its liabilities as they fell due, and has failed to have competent and prudent management.

Relevant statutory provisions

- 2.2 The FSA's regulatory objectives established in section 2(2) of the Act include maintaining confidence in the financial system and the protection of consumers.
- 2.3 The FSA is authorised by section 45 of the Act to cancel an authorised person's Part IV permission, where it appears to the FSA that it is failing to satisfy the Threshold Conditions.
- 2.4 Paragraph 4(1) of Schedule 6 to the Act sets out Threshold Condition 4, which states that:

"The resources of the person concerned must, in the opinion of the Authority, be adequate in relation to the regulated activities that it seeks to carry on, or carries on."

Relevant Handbook provisions

- 2.5 In exercising its power to cancel a Part IV permission, the FSA must have regard to relevant provisions in the FSA Handbook of rules and guidance (the "FSA Handbook"). The main provisions relevant to the action are set out below.

Guidance concerning the relevant Threshold Condition ("COND")

- 2.6 Guidance on the Threshold Conditions is set out in the Part of the FSA Handbook entitled Threshold Conditions ("COND").

COND 2.4 - Threshold Condition 4: Adequate resources (paragraph 4, Schedule 6 to the Act)

- 2.7 COND 2.4.1UK(1) reproduces the relevant statutory provision that the resources of the authorised person concerned must, in the opinion of the FSA, be adequate in relation to the regulated activities that it seeks to carry on, or carries on.
- 2.8 COND 2.4.1UK(2) permits the FSA, when forming its opinion as to whether the resources of an authorised person are adequate in relation to the regulated activities that

it carries on, to have regard to the provision it makes in respect of liabilities (including contingent and future liabilities), and whether its human resources are adequate.

- 2.9 COND 2.4.4G(1) states that the FSA only takes into account relevant matters which are material in relation to the regulated activities for which the authorised person has permission.
- 2.10 COND2.4.4G(2)(a) states that such relevant matters may include whether there are any indications that the authorised person will not be able to meet its debts as they fall due.
- 2.11 COND2.4.4G(2)(d) states that such relevant matters may also include whether the authorised person has taken reasonable steps to identify and measure any risks of regulatory concern that it may encounter in conducting its business, and has installed appropriate systems and controls and appointed appropriate human resources to measure them prudently at all times.

Relevant regulatory provisions

- 2.12 The FSA's policy in relation to its enforcement powers is set out in the Enforcement Guide ("EG"), certain provisions of which are summarised below.
- 2.13 EG 8.1(1) provides that the FSA may use its own initiative power to vary or cancel the permission of an authorised firm under section 45 of the Act, where a firm is failing or is likely to fail to satisfy the Threshold Conditions.

Cancelling a firm's Part IV permission at the FSA's own initiative

- 2.14 EG 8.13(1) states that the FSA will consider cancelling a Part IV permission using its own-initiative power contained in section 45 of the Act in circumstances where the FSA has very serious concerns about a firm, or the way its business is or has been conducted.
- 2.15 EG 8.14 provides examples of the circumstances in which the FSA will consider cancelling a Part IV permission. The failure to have or maintain adequate financial resources (EG 8.14(3)) is specified as one such circumstance.

Facts and matters relied on

- 2.16 Wise Owl is a small mortgage and insurance mediation firm, whose main business concerned building and life insurance. With effect from 24 November 2008, Wise Owl was authorised and regulated by the FSA to carry on the following regulated activities (those marked with an asterisk were limited to non-investment insurance contracts):
- (1) advising on investments (except on pension transfers and pension opt outs);
 - (2) advising on regulated mortgage contracts;
 - (3) agreeing to carry on a regulated activity;
 - (4) arranging (bringing about) deals in investments;

- (5) arranging (bringing about) regulated mortgage contracts;
- (6) making arrangements with a view to regulated mortgage contracts; and
- (7) making arrangements with a view to transactions in investments

2.17 However, with effect from 3 August 2010, Wise Owl voluntarily varied its permission such that it was no longer permitted to conduct any regulated activity as a result of the FSA having identified that Wise Owl had previously ceased to trade, in or around July 2010. Alexander Simon Brincat (“Mr Brincat”) is the only approved person at Wise Owl, holding the controlled function of CF1 (Director). He is also responsible for insurance mediation.

2.18 Since at least March 2010, Wise Owl incurred significant debt, being commission clawback payable to certain life insurance providers in the sum of £170,000. Wise Owl did not ensure that it had sufficient financial resources with which to meet these significant liabilities as they fell due.

2.19 In or around March 2010, Mr Brincat, the only approved person at Wise Owl, left the United Kingdom for an indefinite period of time, with the effect that there was no competent and prudent management at Wise Owl and there was no other approved person to ensure that systems and controls are upheld and that Wise Owl’s regulatory requirements are complied with.

2.20 One of Wise Owl’s insurance company providers petitioned for Wise Owl to be wound up on 3 December 2010. This petition was granted on 3 March 2011 and Wise Owl is now in liquidation.

Conclusions

2.21 The facts and matters described above lead the FSA, having regard to its regulatory objectives, to the following conclusions:

- Wise Owl has failed to ensure that it has a competent and prudent management by which to conduct its business in compliance with proper standards and meet regulatory requirements;
- Wise Owl has failed to maintain adequate financial resources such that it could meet its liabilities as they fell due;
- these financial and human resources failings are significant and material in relation to the regulated activities for which Wise Owl has permission and Wise Owl is therefore failing to satisfy Threshold Condition 4 (Adequate resources).

3. DECISION MAKERS

3.1 The decision which gave rise to the obligation to give this Notice was made on behalf of the FSA by the Settlement Decision Makers.

4. IMPORTANT

4.1 This Final Notice is given to Wise Owl in accordance with section 390 of the Act.

Publicity

4.2 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 FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to Wise Owl or prejudicial to the interests of consumers.

FSA contact

4.3 For more information concerning this matter generally, you should contact Rachel West in the Enforcement and Financial Crime Division of the FSA (direct line: 0207 066 0142).

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Tom Spender
Head of Department
FSA Enforcement and Financial Crime Division