
FIRST SUPERVISORY NOTICE

To: Daniel Chandler Limited

Of: 2A Old Market Place
Altrincham
Cheshire
WA14 4NP

**Interim
Permission
Number:** 650711

Dated: 9 June 2015

ACTION

1. For the reasons given below and under section 55J of the Act, the Authority has decided to vary DCL's Interim Permission by removing all regulated activities with immediate effect. Accordingly, DCL's Interim Permission no longer includes the regulated activities of—
 - a. credit broking or credit broking limited to credit intermediation;
 - b. debt adjusting on a commercial basis;
 - c. debt-counselling on a commercial basis.
2. For the reasons given below and under section 55L of the Act, the Authority has decided to impose with immediate effect a requirement on DCL, such that the money in the Bank Accounts (including any money deposited into the Bank

Accounts in the future) may not, so long as the requirement is in force, be dealt with in any way without the written consent of the Authority. This is an assets requirement within the meaning of section 55P(4)(a) of the Act.

3. For the reasons given below and under section 55L, the Authority has further decided to impose the following requirements, namely that DCL must—
 - a. by 24 June 2015 notify in writing all clients for DCL's previously permitted regulated activities that it is no longer permitted by the Authority to carry on any regulated activities; and
 - b. by 24 June 2015 provide the Authority with a copy of the written notification sent in accordance with paragraph 3(a) above, together with a list of all clients to whom the notification has been sent.

REASONS FOR ACTION

4. The Authority has concluded, on the basis of the facts and matters set out in this Notice, that DCL is failing to satisfy the Threshold Conditions, in that—
 - a. the Authority considers that DCL has been mismanaging money received by DCL from its clients under debt management plans, based on information contained in Final Decisions made by the FOS in respect of DCL, and complaints received by the FOS and the Authority in relation to DCL;
 - b. DCL has unreasonably failed to engage with or to agree to the Authority's requests to conduct a visit to DCL's offices to enable the Authority to obtain further information in relation to the concerns set out in paragraph 4(a) of this Notice;
 - c. DCL has failed to provide material information to the Authority about its handling of money received from its clients, despite being required to do so.
5. The Authority considers that DCL is failing to satisfy the Threshold Condition in paragraph 2E of Schedule 6 to the Act ('suitability'). The Authority is not satisfied that DCL is a fit and proper person, having regard to all the circumstances. In particular the Authority does not consider that DCL is conducting its affairs in an appropriate manner, having regard in particular to the interest of consumers. Further, the Authority does not consider that DCL's business is being managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner. Further, the Authority considers that the firm is not being open and co-operative with the Authority (in breach of Principle 11 of the Principles) and has had regard to the extent and manner of DCL's compliance with requirements of the Authority in assessing whether DCL is a fit and proper person having regard to all the circumstances.
6. The Authority has serious concerns about DCL's business (in that it is failing to satisfy the Threshold Conditions and in the risk it poses to consumers). The Authority considers that it is necessary to vary DCL's Interim Permission, and to impose the requirements set out in paragraphs 2 and 3, with immediate effect to address those concerns.

DEFINITIONS

7. In this Notice—

“the Act” means the Financial Services and Markets Act 2000;

“the Authority” means the Financial Conduct Authority;

“the Bank Accounts” means [REDACTED] bank accounts held by DCL at the [REDACTED] [REDACTED] with the account number [REDACTED] and sort code [REDACTED];

“COND” means the section of the Authority’s Handbook entitled ‘Threshold Conditions’;

“DCL” means Daniel Chandler Limited;

“DCL’s Interim Permission” has the meaning given in paragraph 9;

“EG” means the Authority’s Enforcement Guide;

“the FOS” means the Financial Ombudsman Service;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“the Principles” means the section of the Authority’s Handbook entitled ‘Principles for Businesses’;

“the Threshold Conditions” means the threshold conditions set out in Schedule 6 to the Act;

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

FACTS AND MATTERS

8. On 19 September 2012, DCL was issued with a Consumer Credit Licence by the Office of Fair Trading.
9. DCL obtained an interim permission on 1 April 2014 (following the transfer of consumer credit regulation from the Office of Fair Trading to the Authority), which arose in accordance with article 56 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No 2) Order 2013 and following DCL’s application for interim permission of 14 February 2014 (“DCL’s Interim Permission”).
10. Between January 2014 and March 2015, the FOS issued ten Final Decisions in respect of DCL in favour of DCL’s clients. These Final Decisions related to complaints by DCL’s clients that DCL had failed to distribute adequately to their creditors payments made by the clients to DCL under debt management plans.
11. The Authority and the FOS have also received further complaints from DCL’s clients, which relate to similar issues of DCL failing to distribute adequately to

their creditors payments made by the complainants to DCL under debt management plans.

12. On 23 April 2015 and 8 May 2015, the Authority required DCL to provide, amongst other things, DCL's most recent client money reconciliation. To date, DCL has not provided to the Authority its most recent client money reconciliation.
13. Since 6 May 2015, the Authority has attempted to engage with DCL in order to arrange a visit to DCL's offices. The purpose of the visit was to obtain, amongst other things, further information regarding DCL's management of money received by DCL from clients under debt management plans. Despite further requests by the Authority to arrange a visit, DCL has failed without adequate explanation to agree to a visit being conducted by the Authority.

PROCEDURAL MATTERS

14. This First Supervisory Notice is given to DCL under section 55Y(4) and in accordance with section 55Y(5) of the Act.

Decision Maker

15. The decision which gave rise to the obligation to give this First Supervisory Notice was made by a Deputy Chairman of the Regulatory Decisions Committee.

The Tribunal

16. DCL has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. The Tax and Chancery Chamber is the part of the Tribunal which, amongst other things, hears references arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 to the Tribunal Procedure (Upper Tribunal) Rules 2008, DCL has 28 days from the date on which this First Supervisory Notice is given to it to refer the matter to the Tribunal.
17. A reference to the Tribunal is made by way of a signed reference notice (Form FTC3) and filed with a copy of this Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, Fifth Floor, Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: fs@hmcts.gsi.gov.uk).
18. Further information on the Tribunal can be found on the HM Courts and Tribunal Service website (including guidance and a link to 'Forms and leaflets' which contains Form FTC3 and notes on that form):

<https://www.justice.gov.uk/tribunals/tax-and-chancery-upper-tribunal>
19. A copy of Form FTC3 must also be sent to Dilip Vekariya, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS at the same time as filing a reference with the Tribunal.

Representations

20. DCL has the right to make written and oral representations to the Authority (whether or not DCL refers this matter to the Tribunal). The deadline for

providing written representations to the Authority and also to notify the Authority that it wishes to make oral representations is **25 June 2015** or such later date as may be permitted by the Authority. Written representations should be made to the Regulatory Decisions Committee and sent to:

Julie Jones
Regulatory Decisions Committee Secretariat
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

Publicity

21. DCL should note that section 391 of the Act requires the Authority when the First Supervisory Notice takes effect (and this First Supervisory Notice takes immediate effect), to publish such information about the matter as it considers appropriate.

Contacts

22. For more information concerning this matter generally, DCL should contact Dilip Vekariya at the Authority (direct line: 020 7066 5520).
23. If DCL has any questions regarding the procedures of the Regulatory Decisions Committee, it should contact Julie Jones (direct line: 020 7066 1190).

Andrew Long
Deputy Chairman, Regulatory Decisions Committee

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives established in section 1(B) of the Act include the protection of consumers.
2. Article 59(6) of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013 states that:

"When the [Authority] or PRA—
 - (a) exercises its power under section 55J of the Act (variation or cancellation on initiative of regulator) in relation to A, [...]
 - (c) exercises its power under section 55L of the Act (in the case of the [Authority]) or section 55M of the Act (in the case of the PRA) (imposition of requirements by the regulator) in relation to A,section 55B(3) of the Act (satisfaction of threshold conditions) does not require the regulator to ensure that A will satisfy, and continue to satisfy, in relation to the regulated activities for which A has an interim permission, the threshold conditions for which that regulator is responsible."
3. Article 56(9)(b) of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No 2) Order 2013 provides that an interim permission is to be treated as a Part 4A permission.
4. The Authority is authorised by section 55J of the Act to exercise the following powers in respect of a Part 4A permission:
 - to vary an authorised person's permission where it appears to the Authority that such person is failing to satisfy the Threshold Conditions (section 55J(1)(a));
 - to vary an authorised person's permission where it is desirable to do so to advance any of its operational objectives (section 55J(1)(c)(i));
 - to vary such a permission by removing a regulated activity from those for which the permission is given (section 55J(2)(a)(ii)); and
 - to include any provision in the permission as varied that could be included if a fresh permission were being given in response to an application under section 55A of the Act (section 55J(10)).
5. The Authority is authorised by section 55L of the Act to impose a new requirement on an authorised person with a Part 4A permission if it appears to the Authority that such person is failing to satisfy the Threshold Conditions (section 55L(2)(a)) or it is desirable to do so to advance any of the Authority's operational objectives (section 55L(2)(c)).

6. Section 55P of the Act provides that a requirement under section 55L which prohibits the disposal of, or other dealing with, any of the subject's assets (whether in the United Kingdom or elsewhere) or restricting such disposals or dealings is an 'assets requirement' (section 55P(4)(a)) of which the Authority may give notice to any institution with whom the subject has an account, with the effects for that institution set out in section 55P(6) of the Act.
7. Section 55Y(3) of the Act allows such a variation or requirement to take effect immediately (or on a specified date) only if the Authority, having regard to the ground on which it is exercising its own-initiative power, reasonably considers that it is necessary for the variation or imposition of the requirement to take effect immediately (or on that date).
8. Section 391 of the Act provides that:

“[...]”

 - (5) When a supervisory notice takes effect, the [Authority] must publish such information about the matter to which the notice relates as it considers appropriate.
 - (6) The [Authority] may not publish information under this section if, in its opinion, publication of the information would be-
 - (a) unfair to the person with respect to whom the action was taken,
 - (b) prejudicial to the interests of consumers...
 - (7) Information is to be published under this section in such manner as the [Authority] considers appropriate.”
9. Paragraph 2E to Schedule 6 to the Act states that:

“A must be a fit and proper person having regard to all the circumstances, including-

 - (c) the need to ensure that A's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers [...];
 - (d) whether [the firm] has complied and is complying with requirements imposed by the [Authority] in the exercise of its functions, or requests made by the [Authority], relating to the provision of information to the [Authority] and, where [the firm] has so complied or is so complying, the manner of that compliance;

[...]

 - (f) whether A's business is being, or is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner;

[...].”

RELEVANT HANDBOOK PROVISIONS

10. In exercising its power to vary a Part 4A permission, the Authority must have regard to guidance published in the Handbook. The relevant main considerations in relation to the action specified above are set out below.

Relevant Principles

11. Principle 11 (Relations with regulators) of the Principles, states that a firm must deal with its regulators in an open and co-operative way.

Guidance concerning the relevant Threshold Condition

12. Guidance on the Threshold Conditions is set out in the part of the Handbook entitled Threshold Conditions ("COND").

COND 2.5 – Suitability: Paragraph 2E of Schedule 6 to the Act

13. COND 2.5.1AUK(1) reproduces the relevant statutory provision that the person concerned must satisfy the Authority that he is a fit and proper person having regard to all the circumstances, including amongst other things, the need to ensure that his affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system, and whether the firm's business is being managed in such a way as to ensure that its affairs are being conducted in a sound and prudent manner (COND 2.5.1AUK(1)(c) and (f)).
14. COND 2.5.4G(2) states that examples of the considerations to which the Authority may have regard when assessing whether a firm will satisfy and continue to satisfy the Threshold Conditions include whether the firm conducts its business in compliance with proper standards (COND 2.5.4G(2)(a)).

OTHER RELEVANT REGULATORY PROVISIONS

15. The Authority's policy in relation to its enforcement powers is set out in EG, certain provisions of which are summarised below.
16. EG 8.1 reflects the provisions of section 55J and section 55L of the Act that the Authority may use its own-initiative power to vary the permission of an authorised firm and impose requirements on an authorised firm where a firm is failing or is likely to fail to satisfy the Threshold Conditions (EG 8.1(1)); or where it is desirable to exercise the power in order to advance one or more of its operational objectives (EG 8.1(3)).

Varying a firm's Part 4A permission on the Authority's own initiative

17. EG 8.1B provides that the Authority will have regard to its statutory objectives and the range of regulatory tools that are available to it, when it considers how it should deal with a concern about a firm.
18. EG 8.3 provides that the Authority will exercise its formal powers under section 55J or 55L of the Act, where the Authority considers it is appropriate to ensure a firm meets its regulatory requirements. EG 8.3(1) specifies that the Authority

may consider it appropriate to exercise its powers where it has serious concerns about a firm or the way its business is being or has been conducted.

19. EG 8.5(1)(a) specifies that the Authority will consider exercising its own-initiative power under section 55J(1)(a) or 55L(2)(a) of the Act, where the firm appears to be failing, or appears likely to fail, to satisfy the Threshold Conditions relating to one or more, or all, of its regulated activities.

Use of the own-initiative powers in urgent cases

20. EG 8.6 states that the Authority may impose a variation of permission or a requirement so that it takes effect immediately or on a specified date if it reasonably considers it necessary for the variation to take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative powers.
21. EG 8.7 provides the circumstances in which the Authority will consider exercising its own initiative power as a matter of urgency, include where the information available to it indicates serious concerns about the firm or its business that need to be addressed immediately (EG 8.7(1)).
22. EG 8.8 sets out a non-exhaustive list of factors the Authority will consider in exercising its own-initiative power as a matter of urgency. EG 8.8(1) specifies that the Authority will consider urgent own-initiative action if there is information indicating a significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests.
23. EG 8.9 sets out the factors which will determine whether the urgent exercise of the Authority's own-initiative power is an appropriate response to serious concerns, including: the extent of any consumer loss or risk of consumer loss or other adverse effect on consumers (EG 8.9(1)) and the extent to which customer assets appear to be at risk (EG 8.9(2)).

Limitations and requirements that the FCA may impose when exercising its section 55J and 55L powers

24. EG 8.12 gives examples of the requirements that the FCA may consider imposing, which include a requirement that prohibits the disposal of, or other dealing with, any of the firm's assets or restricts those disposals or dealings.