
FIRST SUPERVISORY NOTICE

To: Larksway Investments Limited

**Address: The Barn
Little Hyde Hall
Hatfield Heath Road
Sawbridgeworth
CM21 9HX**

**Firm Reference
Number: 516619**

**Interim Variation
of Permission
Reference
Number: 640731**

Dated: 27 September 2017

ACTION

1. For the reasons given below and pursuant to section 55L of the Act, the Authority has decided to impose the following requirements on Larksway, with immediate effect. The requirements are that:
 - (a) Larksway may not carry on any of the regulated activities for which it holds a Part 4A permission; and
 - (b) the money held in all bank accounts operated by Larksway (including any money deposited, in the future, into any bank account operated by Larksway) may not be dealt with in any way without the prior written consent of the Authority. This is an assets requirement within the meaning of section 55P(4) of the Act.

2. In addition, for the reasons given below and under section 55L of the Act, the Authority has further decided to impose, with immediate effect, the following requirements on Larksway, namely that Larksway must:
 - (a) By 13 October 2017, notify in writing all clients for Larksway's regulated activities (i.e. all persons to whom Larksway provides, intends to provide or has within the past 12 months provided a service in the course of carrying on a regulated activity) that it may not carry on any of the regulated activities for which it holds a Part 4A permission;
 - (b) agree the wording of the notification under paragraph 2(a) above with the Authority prior to the notification being sent by Larksway to its clients; and
 - (c) by 20 October 2017, provide to the Authority a list of all clients for Larksway's regulated activities, a copy of the written notification sent to its clients, and confirmation that such notification has been sent to all clients on the list.

REASONS FOR ACTION

3. Larksway has failed to respond adequately to the Authority's repeated requests for, and notices issued by the Authority to Larksway under section 165 of the Act requiring Larksway to provide, information relating to:
 - (a) the manner in which Larksway is, and has been, handling premiums it has received from its customers for insurance;
 - (b) Larksway's ability to meet its liabilities as they fall, or have fallen, due; and
 - (c) Larksway's ability to operate its banking arrangements adequately.
4. As a consequence of Larksway's failure to provide the information requested and required by the Authority in such requests and notices, the Authority considers that Larksway poses a risk to consumers. This is because:
 - (a) the Authority has serious concerns as to whether Larksway is, and has been, handling properly premiums it has received, and will handle properly premiums it receives in future, from its customers for insurance; and
 - (b) the Authority cannot be satisfied that Larksway is satisfying the appropriate resources Threshold Condition.
5. Further, as a result of Larksway's inadequate responses to the Authority's requests and requirements for information, the Authority considers that Larksway is not a fit and proper person, having regard to all the circumstances, and is failing to satisfy the suitability Threshold Condition. In particular, Larksway has failed to deal with the Authority in an open and cooperative way, in breach of Principle 11 (Relations with regulators) of the Principles, and the Authority does not consider that Larksway is conducting its affairs in an appropriate manner, having regard in particular to the interest of consumers. In addition, the Authority does not consider that Larksway's business is being managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner.
6. For the above reasons, the Authority concludes that Larksway is failing to satisfy the Threshold Conditions and that Larksway's continued conduct of regulated

business poses a risk to consumers. The Authority therefore considers it is necessary to impose the requirements set out in paragraphs 1 and 2 above.

7. The Authority has also concluded that the seriousness of the risk that Larksway poses to consumers makes it necessary to impose these requirements with immediate effect in order to secure an appropriate degree of protection for consumers.

DEFINITIONS

8. The definitions below are used in this First Supervisory Notice (and in the Annex):

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

“the appropriate resources Threshold Condition” means the threshold condition set out in paragraph 2D of Schedule 6 of the Act;

“the Authority” means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

“COND” means the Threshold Conditions part of the Handbook;

“the Decision Notice” means the decision notice given to Larksway dated 25 October 2016;

“DISP” means the Dispute Resolution: Complaints Manual, which is part of the Handbook;

“EG” means the Enforcement Guide;

“the FOS” means the Financial Ombudsman Service;

“the FOS Award” means the Final Decision by the FOS against Larksway on 17 December 2014, in relation to Ms B (decision reference: DRN4040664);

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

“Larksway” means Larksway Investments Limited;

“Larksway’s Part 4A Permission” means the permission granted by the Authority to Larksway pursuant to Part 4A of the Act;

“a Part 4A permission” means a permission granted by the Authority pursuant to Part 4A of the Act;

“the Principles” means the Authority’s Principles for Businesses;

“the RDC” means the Authority’s Regulatory Decisions Committee;

“the suitability Threshold Condition” means the threshold condition set out in paragraph 2E of Schedule 6 of the Act;

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

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

FACTS AND MATTERS RELIED ON

Background

9. Larksway was authorised by the Authority on 30 November 2010 and is permitted to conduct insurance mediation business. Also, on 1 April 2014, following the transfer of Consumer Credit regulation from the Office of Fair Trading to the Authority, Larksway was granted an interim variation of permission to conduct credit broking.
10. On 25 October 2016, the Authority gave Larksway a decision notice. The Decision Notice sets out the Authority’s decision to cancel Larksway’s Part 4A Permission on the basis that Larksway is failing to satisfy the suitability Threshold Condition. Specifically, Larksway failed to comply with the FOS Award made against it, despite repeated requests by the FOS and the Authority that it do so. The Authority concluded that, by not complying with the FOS Award, Larksway was in breach of DISP 3.7.12R(1) and Principle 6 (Customers’ interests) and Principle 11 (Relations with regulators) of the Principles. In the light of these matters, the Authority concluded that Larksway was not fit and proper to be permitted to conduct regulated activities.
11. Larksway has referred the Decision Notice to the Tribunal. Accordingly, the Authority’s decision to cancel Larksway’s Part 4A Permission has not yet taken effect and, subject to this First Supervisory Notice, it continues to be permitted to carry on the regulated activities for which it holds a Part 4A permission.

Information received by the Authority

12. Since giving Larksway the Decision Notice, the Authority has received information which indicates that:
 - (a) Larksway has failed to pay £318,775.66 to Firm A in respect of outstanding net insurance premiums due to Firm A for insurance policies that Larksway has arranged for its customers;
 - (b) Larksway may have failed to pass on insurance premiums it received from its customers which were due to Firm A; and
 - (c) Larksway has failed to pay £52,418.09 to Firm C in respect of invoices issued by Firm C to Larksway for professional services provided to Larksway by, or through, Firm C.
13. The Authority has also received information which shows that Larksway is contesting a petition from Firm A to wind it up, in relation to the alleged debt mentioned at paragraph 12(a) above, and information which indicates that a bank account in Larksway’s name has been frozen and that any other bank account that Larksway holds may also be subject to restrictions.
14. The Authority also understands that Larksway still has not complied with the FOS Award and that at least £9,730.59 of the amount owed by Larksway to Ms B remains outstanding.

Correspondence with Larksway

15. The information received by the Authority regarding the winding up petition and the alleged debts owed by Larksway caused the Authority to seek clarification of Larksway's ability to satisfy the appropriate resources Threshold Condition. Therefore, since 17 March 2017, the Authority has attempted to engage with Larksway in order to obtain information regarding the matters specified in paragraphs 12 and 13 above. In particular:
 - (a) on 17 March 2017, the Authority sent Larksway a notice under section 165 of the Act, requiring Larksway to provide to the Authority, amongst other things, specific information regarding all of Larksway's creditors and a copy of Larksway's new business register;
 - (b) on 24 May 2017, the Authority requested that Larksway provide evidence to the Authority demonstrating that it has adequate financial resources to meet all of its liabilities as they fall due, including the liabilities referred to in paragraphs 12 and 14 above;
 - (c) on 20 June 2017, the Authority requested that Larksway provide a copy of its client money audit reports for the last three years, its latest client money calculation, and details of all bank accounts used by Larksway to receive and hold insurance premiums received by Larksway from its customers; and
 - (d) on 24 July 2017, the Authority requested that Larksway provide specific information regarding any restrictions placed on its bank accounts.
16. Larksway failed to respond adequately to the notice dated 17 March 2017 and to each of the Authority's requests for information as specified in paragraph 15(b) to (d) above.
17. As a result of such failure by Larksway, the Authority sent Larksway a further notice on 2 August 2017 under section 165 of the Act, requiring Larksway to provide to the Authority all of the information the Authority had requested from Larksway between 17 March 2017 and 24 July 2017 as summarised in paragraph 15 above, and full, up to date management accounts for Larksway.
18. On 3 August 2017, Larksway informed the Authority that it had submitted a complaint to the Authority that has not been determined, and that it considered it would undermine the complaint if it responded to the notice of 2 August 2017. The Authority does not consider this is an adequate reason for Larksway's failure to respond, given the gravity of the Authority's concerns and that the complaint and the Authority's enquiries are separate matters. Therefore, the Authority considers that Larksway has not provided any adequate explanation for not responding.
19. On 29 August 2017, the Authority sent a letter to Larksway which explained that, as a result of Larksway's failure to respond adequately to the Authority's notices and requests for information relating to the matters specified in paragraphs 12 and 13 above, the Authority considered that, in continuing to be permitted to conduct regulated business, Larksway posed a serious risk to consumers. The Authority also informed Larksway that the fact that it had submitted a complaint to the Authority did not affect Larksway's obligation to continue to meet its regulatory obligations. The letter informed Larksway that a recommendation would therefore be made to the RDC to impose the requirements set out in

paragraphs 1 and 2, with immediate effect. Larksway was informed that any response it submitted to the letter would be put before the RDC.

20. In response to the 29 August 2017 letter, Larksway merely informed the Authority that it disputed the alleged debts described in paragraph 12 above and declined to provide any further information about the payment of the FOS Award. Larksway still has not responded adequately to the Authority's notices or to any of the Authority's requests for information.

FAILINGS

21. The statutory and regulatory provisions relevant to this First Supervisory Notice are set out in the Annex.
22. From the facts and matters described above the Authority, having regard to its operational objectives, which include the protection of consumers, considers that:
 - The matters specified in paragraphs 12 and 13 above raise serious concerns as to whether Larksway is able to meet its liabilities as they fall (or have fallen) due, and as to whether it has adequate banking arrangements in place. Larksway has repeatedly failed to respond adequately to these concerns. The Authority therefore has serious concerns as to whether Larksway is satisfying the appropriate resources Threshold Condition;
 - The matters specified in paragraph 12(a) and (b) above raise serious concerns as to whether Larksway is, and has been, handling properly premiums it has received. Larksway has repeatedly failed to respond adequately to these concerns. The Authority is not satisfied that Larksway will handle properly premiums it receives in future from its customers for insurance;
 - By failing to respond adequately to the Authority's repeated requests for, and to notices requiring Larksway to provide, information to the Authority, without any adequate explanation for such failure, Larksway has failed to deal with the Authority in an open and cooperative way, in breach of Principle 11;
 - As a result of its inadequate responses, Larksway has also failed to satisfy the Authority that its affairs are being conducted in an appropriate manner, having regard in particular to the interest of consumers, and that its 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; and
 - Larksway is not a fit and proper person having regard to all the circumstances, and is failing to satisfy the suitability Threshold Condition.
23. For the reasons set out above, the Authority considers that Larksway is failing to satisfy the Threshold Conditions and that Larksway's continued conduct of regulated business poses a clear and immediate risk to consumers. The Authority therefore considers it is necessary to impose the requirements set out in paragraphs 1 and 2 above.
24. Further, the Authority has considered the risk of loss or other adverse effect on consumers in light of the facts and conclusions set out above. The Authority has serious concerns about the risk that Larksway presents to consumers that need to be addressed immediately. These concerns have been explained in detail to Larksway and Larksway cannot have been in any doubt about the need to respond promptly and effectively to them. The Authority concludes that, in all the

circumstances, it is necessary to impose the requirements specified in paragraphs 1 and 2 above with immediate effect, in order to address those concerns and to advance the Authority's operational objective of securing an appropriate degree of protection for consumers. The Authority considers this action is necessary notwithstanding that the Authority has already taken action, for different reasons, to cancel Larksway's Part 4A permission, by giving Larksway the Decision Notice. The Authority's conclusion that Larksway poses an immediate risk to consumers is based on information which it has received, and matters which have occurred, since the Decision Notice.

PROCEDURAL MATTERS

25. This First Supervisory Notice is given under section 55Y(4) of the Act.

Decision Maker

26. The decision which gave rise to the obligation to give this First Supervisory Notice was made by the RDC.

27. The following paragraphs are important.

The Tribunal

28. Larksway has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, Larksway has 28 days from the date on which this First Supervisory Notice is given to it to refer the matter to the Tribunal.

29. A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by Larksway and filed with a copy of this First Supervisory Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, 5th Floor, The Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: uttc@hmcts.gsi.gov.uk).

30. For further information on the Tribunal Larksway should refer to the HM Courts and Tribunal Service website. The following page includes guidance on making a reference to the Tribunal, the relevant form to complete (Form FTC3) and notes on that form:

<http://www.justice.gov.uk/forms/hmcts/tax-and-chancery-upper-tribunal>

31. Larksway should note that a copy of the reference notice (Form FTC3) must also be sent to the Authority at the same time as filing a reference with the Tribunal. A copy of the reference notice should be sent to Dilip Vekariya at the Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.

Representations

32. Larksway has the right to make written and oral representations to the Authority (whether or not Larksway 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 13 October 2017 or such later date as may be permitted by the Authority. The address for doing so is:

Jane Hendley
Decision-Making Committees Secretariat
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
E14 5HS

Publicity

33. Larksway 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.

Authority Contacts

34. For more information concerning this matter generally, Larksway should contact Dilip Vekariya at the Authority (direct line: 020 7066 5520).
35. If Larksway has any questions regarding the procedures of the Regulatory Decisions Committee, it should contact Jane Hendley (direct line: 020 7066 3920).

**Simon Pearce, Company Secretary on behalf of
Peter Hinchliffe
Deputy Chair, Regulatory Decisions Committee**

ANNEX

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives established in section 1B of the Act include the protection of consumers.
2. 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)).
3. 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 which restricts 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. The notice has the effects set out in section 55P(6) of the Act.
4. Section 55Y(3) of the Act allows the imposition of a 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 imposition of the requirement to take effect immediately (or on that date).
5. The appropriate resources Threshold Condition provides, in relation to a person ("A") carrying on or seeking to carry on regulated activities which do not consist of or include a PRA-regulated activity, that:

"The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on."
6. The suitability Threshold Condition provides, in relation to a person ("A") carrying on or seeking to carry on regulated activities which do not consist of or include a PRA-regulated activity, 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;

[...]

 - (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

7. In exercising its power to impose a requirement on an authorised person, the Authority must have regard to guidance published in the Handbook, and in regulatory guides such as EG. The relevant main considerations in relation to the action specified above are set out below.

Relevant Principle

8. Principle 11 (Relations with regulators) of the Principles, states that a firm must deal with its regulators in an open and cooperative way, and must disclose to the appropriate regulator appropriately anything relating to the firm of which the regulator would reasonably expect notice.

Guidance concerning the relevant Threshold Condition

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

COND 2.4 – Appropriate resources: Paragraph 2D of Schedule 6 to the Act

10. COND 2.4.1AUK(1) reproduces the relevant statutory provision that the resources of the person concerned must be appropriate in relation to the regulated activities that it carries on or seeks to carry on.
11. COND 2.4.1AUK(3) states that the matters which are relevant in determining whether a firm has appropriate financial resources include the provision the firm makes in respect of liabilities.
12. COND 2.4.2G(2) provides that, in this context, the Authority will interpret the term 'appropriate' as meaning sufficient in terms of quantity, quality and availability, and 'resources' as including all financial resources, non-financial resources and means of managing its resources; for example, capital, provisions for liabilities, holding of or access to cash and other liquid assets, human resources and effective means by which to manage risks.
13. COND 2.4.4G(2) states that relevant matters to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, the appropriate resources Threshold Condition may include whether there are any indications that the firm will not be able to meet its debts as they fall due (COND 2.4.4G(2)(b)).

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

14. 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 (COND 2.5.1AUK(1)(c)), and whether the firm's business is being, and is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner (COND 2.5.1AUK(1)(f)).
15. COND 2.5.4G(2) states that examples of the general considerations to which the Authority may have regard when assessing whether a firm will satisfy and continue to satisfy the suitability Threshold Condition include whether the firm conducts its business in compliance with proper standards (COND 2.5.4G(2)(a)).
16. COND 2.5.6G sets out 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, the suitability Threshold Condition, which include, but are not limited to, whether: the firm has been open and cooperative in all its dealings

with the Authority and is ready, willing and organised to comply with the requirements and standards of the regulatory system (COND 2.5.6G(1)); and whether the firm has contravened any provisions of the Act or the regulatory system, which include the Principles and other rules (COND 2.5.6G(4)).

OTHER RELEVANT REGULATORY PROVISIONS

17. The Authority's policy in relation to its enforcement powers is set out in EG, certain provisions of which are summarised below.
18. EG 8.1.1(1) reflects the provisions of 55L of the Act that the Authority may use its own-initiative power to impose requirements on an authorised person where the person is failing or is likely to fail to satisfy the threshold conditions, or it is desirable to exercise the power in order to advance one or more of the Authority's operational objectives.

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

14. EG 8.2.1 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.
15. EG 8.2.3 provides that the Authority will exercise its formal powers under section 55L of the Act where the Authority considers it is appropriate to ensure a firm meets its regulatory requirements. EG 8.2.3(1) specifies that the Authority may consider it appropriate to exercise its powers where it has serious concerns about a firm or about the way its business is being or has been conducted.
16. EG 8.2.6(1) specifies that the Authority will consider exercising its own-initiative power under section 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

17. EG 8.3.1 states that the Authority may impose a requirement so that it takes effect immediately or on a specified date if the Authority reasonably considers it necessary for the requirement take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative powers.
18. EG 8.3.2(1) provides that the Authority will consider exercising its own initiative power as a matter of urgency where the information available to the Authority indicates serious concerns about the firm or its business that need to be addressed immediately, and circumstances indicate that it is appropriate to use statutory powers immediately to require and/or prohibit certain actions by the firm in order to ensure the firm addresses these concerns.
19. EG 8.3.3 sets out a non-exhaustive list of factors that the Authority will consider when exercising its own initiative power as a matter of urgency. EG 8.3.3(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.
20. EG 8.3.4 sets out the factors that the Authority may consider when it decides whether an urgent imposition of a requirement is appropriate, including: the

extent of any loss, risk of loss or other adverse effect on consumers (EG 8.3.4(1)); the extent to which customer assets appear to be at risk (EG 8.3.4(2)); and the seriousness of any suspected breaches of the requirements of the legislation or the rules and the steps that need to be taken to correct those breaches (EG 8.3.4(4)).

Requirements that the Authority may impose when exercising its section 55L powers

21. EG 8.4.4 gives examples of the requirements that the Authority may consider imposing, which include a requirement that prohibits the disposal of, or other dealing with, any of the firm's assets or restricts such disposal or dealings.