
FIRST SUPERVISORY NOTICE

To: **Morgan Ingram Associates Limited (formerly SeedTribe Limited)**

Reference Number: **695526**

Address: **Morgan Ingram Associates Limited
Unit 18 Parsons Green House
27-31 Parsons Green Lane
London
SW6 4HH**

Date: **2 December 2021**

1 ACTION

1.1 For the reasons given in this First Supervisory Notice, and pursuant to section 55L(3)(a) of the Financial Services and Markets Act 2000 ("the Act"), the Financial Conduct Authority ("the Authority") has decided to impose the following requirements ("the Requirements") on SeedTribe ("the Firm" or "SeedTribe") with immediate effect.

- 1) The Firm must terminate its relationships with the following Appointed Representatives ("ARs") under their respective AR agreements by 17:00 on 6 December 2021 and notify the Authority in writing immediately on termination, those ARs being:
 - i. RST Group Holding (t/a Acorn Property Group) ("Acorn") [FRN 958801];
 - ii. Azure Capital Wealth ("Azure") [FRN 941807];
 - iii. ASMX Pro ("ASMX") [FRN 957165]; and
 - iv. Ribat Investments ("Ribat") [FRN 958496].

- 2) The Firm must terminate its relationship with its AR Commune Invest ("Commune") [FRN 917926] under its respective AR agreement by 17:00 on 5 January 2022 and notify the Authority in writing immediately on termination;
 - 3) With the respect of the regulated activities conducted by Commune as an AR of the Firm:
 - i. The Firm must notify Commune by 17:00 on 6 December 2021 that Commune must not conduct any regulated activity in respect of any new clients, with immediate effect upon Commune's notification by the Firm; and
 - ii. The Firm must, by 12:00 on 23 December 2021, agree wording with the Authority by which any existing retail clients of Commune are notified in writing of the date that Commune will no longer be registered as an AR of the Firm, setting out the effect on them, and by 17:00 on 5 January 2022 notify the Authority that it has sent out these notifications.
 - 4) The Firm must not appoint any additional ARs without the prior written consent of the Authority.
 - 5) The Firm must withdraw all active financial promotions that it has either issued or approved, and direct all of its Appointed Representatives to withdraw all active financial promotions by 17:00 on 6 December 2021;
 - 6) The Firm must not issue or approve any financial promotions without the prior written consent of the Authority.
 - 7) The Firm must not add any new trading names without the prior written consent of the Authority;
 - 8) The Firm must remove all active trading names by 17:00 hours on 6 December 2021 and confirm to the FCA in writing once it has done so;
 - 9) The Firm must take down the website <https://thecitydealmaker.com/> by 17:00 hours on 3 December 2021 and confirm to the FCA once it has done so;
 - 10) The Firm must secure all books and records, including but not limited to email, minutes, records or verbal conversations between parties, that relate to regulated activities carried on by it and the Firm's ARs, and must retain these in a form and at a location (to be notified to the FCA in writing) such that they can be provided to the Authority promptly upon request, with immediate effect;
 - 11) References in these Requirements to "financial promotions" are to the term as defined in the Glossary of the FCA Handbook.
- 1.2 These Requirements shall take immediate effect and remain in force unless and until varied or cancelled by the Authority (either on the application of the Firm or of the Authority's own volition).

2 REASONS FOR ACTION

Summary

- 2.1 The Authority has concluded, on the basis of the facts and matters described below that, in respect of the Firm, it is necessary to exercise its power under section 55L(3)(a) of the Act to impose the Requirements on the Firm because it is failing,

or is likely to fail, to satisfy the Threshold Conditions:

- (i) The Appropriate Resources Threshold Condition set out at paragraph 2D of Schedule 6 of the Act, that a firm's resources must be appropriate in relation to the regulated activities that it carries on or seeks to carry on, on the basis that:
 - The Firm appears to have ceded day-to-day control of their business to individuals who are not approved persons at the Firm; and
 - The Firm has failed to adequately assess the business of the Firm's ARs in order to sufficiently identify and mitigate the risks their activities may pose to consumers.

- (ii) The Suitability Threshold Condition as set out in paragraph 2E to Schedule 6 of the Act, that a firm must be Fit and Proper having regard to all the circumstances including the need to ensure that its affairs are being conducted in an appropriate manner and whether 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, on the basis of:
 - The Firm's lack of adequate systems and controls in relation to its onboarding and ongoing monitoring of the Firm's ARs, in particular its failure to properly identify, assess and mitigate the inherent risks that arise from operation as a Principal or to properly assess their fitness and propriety, or ascertain their solvency;
 - The Firm failed to properly oversee and conduct ongoing monitoring of its ARs;
 - The Firm's lack of adequate controls over the ARs' regulated activities, including its failure to ensure that an approved person be appointed at the active AR, Commune;

 - The Firm's failings in its onboarding and ongoing monitoring of the ARs demonstrate a failure to comply with several of the Authority's rules in SYSC 4 (General organisational requirements) and SUP (Appointed Representatives), and that it appears to also be in breach of Principle 3 of the Authority's Principles for Business, which provides that a firm must take reasonable care to organise and control its affairs responsibly and effectively with adequate risk management systems, and

 - The inability of the Firm to demonstrate that it conducts or will conduct its affairs with the exercise of due skill, care and diligence.

2.2 The Authority has also decided to take action because it is desirable in order to advance one or more of the Authority's operational objectives, which includes securing an appropriate degree of protection for consumers.

2.3 The Authority considers that imposition of the Requirements should take immediate effect because the matters set out in this First Supervisory Notice demonstrate that the Firm is unable to manage its affairs in a sound and prudent manner, and is, or

is likely to, put consumers at risk.

3 DEFINITIONS

3.1 The definitions below are used in this First Supervisory Notice:

“Acorn” means the Firm’s AR RST Group Holdings, trading as Acorn Property Group, FRN: 958801;

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

“AR” means Appointed Representative firm as defined within the Glossary section to the Handbook;

“AR1” means one of the Firm’s ARs, anonymised for the purposes of this FSN;

“AR2” means one of the Firm’s ARs, anonymised for the purposes of this FSN, and a different AR to AR1;

“ASMX” means the Firm’s AR ASMX Pro, FRN: 957165;

“the Authority” or “the FCA” means the Financial Conduct Authority;

“Azure” means the Firm’s AR Azure Capital Wealth, FRN 941807;

“CiC” means Change in Control Application;

“Commune” means Commune Invest, FRN: 917926;

“the Firm” or “SeedTribe” means SeedTribe Limited;

“the Firm’s AR” or “its ARs” means Acorn, Azure, ASMX, Commune and Ribat;

“FRN” means firm reference number as recorded in the Financial Services Register;

“Handbook” means the Authority’s online handbook of rules and guidance (as in force from time to time);

“Principal” means the authorised person who is party to a contract with the Appointed Representative, as defined in the Glossary to the Handbook;

“Requirements” means the terms imposed on the Firm by this First Supervisory Notice as outline in section 1 above;

“SUP” means the Supervision section of the Authority’s Handbook;

“Re-Venue” means the Firm’s former Re-Venue Invest, FRN: 957660;

“Ribat” means the Firm’s AR Ribat Investments, FRN: 958496; and

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

4 FACTS AND MATTERS

Background

- 4.1 SeedTribe was incorporated on 18 November 2014. It was authorised on 22 April 2016. It is a Crowdfunder with investment permissions. SeedTribe is not permitted to hold client money. The Firm has three Directors recorded at Companies House.
- 4.2 The Firm has two trading names currently registered with the FCA. One of these trading names is also listed on the Financial Services Register for another regulated firm.

Control of SeedTribe’s Business

- 4.3 Day-to-day control of SeedTribe is held by two individuals, who are not approved persons at SeedTribe. Both are compliance consultants at an unregulated firm, and approved persons at a different regulated entity.

SeedTribe’s Business Model and Finances

- 4.4 SeedTribe’s 2021 “Business Model and Strategy” describes it as a firm which will “offer investment opportunities” with the “intention that market counterparties, high net worth and sophisticated individuals will be attracted”. The business model states that “since March 2020 we have had a number of approaches from developers and investors as the pandemic has appeared to regenerate greater interest in property development via office relocations [...] we therefore feel it is an appropriate time to deploy the knowledge, skills and experience into the AR sector”. Further information about the Principal / AR business model is not provided. SeedTribe’s Business Model and Strategy does not include any information about SeedTribe’s finances or financial projections.

Appointed Representatives

- 4.5 The Firm is Principal Firm to five Appointed Representatives (“ARs”) and was formerly Principal to a further five ARs. The five current ARs appear, from their websites, to conduct the following business:

AR	Business as described on the AR website
Azure Capital Wealth (“Azure”)	Property development company
Commune Invest (“Commune”)	Equity crowdfunding for High Net Worth / Self-Certified Investors
Ribat	Charity
ASMX Pro (“ASMX”)	Digital trading platform for securities
RST Group Holdings trading as Acorn Property Group (“Acorn”)	Property website

- 4.6 Of the five current ARs, according to SeedTribe only one, Commune, is currently active and using its regulatory permissions. The ARs are contracted to pay SeedTribe an upfront fee, followed by monthly payments. Some of these fees are

substantial: for example the upfront fee in Azure's contract was for a payment of £20,000 to SeedTribe.

The Firm's Compliance History

- 4.7 During October and November 2021, the Firm provided information in response to formal information requirements, under s165 of the Act, sent by the Authority. Although the Firm provided much of the material required, some key information remains outstanding including business plans for the ARs, financial assessments and risk assessments for the ARs, assessments of the regulatory permissions required by the ARs, and SeedTribe's reasoning and rationale for onboarding the ARs.
- 4.8 On 29 October 2021, a feedback letter ("the feedback letter") was sent to SeedTribe outlining the Authority's significant concerns with the Firm's trading names, and the Firm's onboarding and ongoing monitoring of its ARs. Due to the concerns identified, SeedTribe was invited to sign a voluntary requirement ("VREQ") to terminate its relationship with its ARs. On 3 November 2021, the Firm declined to sign the VREQ stating that it considered it *"unwarranted and unjustified"* and that *"business is only conducted with high net worth and sophisticated persons and thus outside the scope of regulation"*.
- 4.9 On 3 November 2021, the Firm submitted an application to add a further AR. The application relates to a company which sells whiskey casks and does not appear to undertake any regulated activities. This application was submitted after SeedTribe had received the feedback letter from the Authority.

Regulatory requirements applicable to Principal firms overseeing ARs

- 4.10 SUP sets out various regulatory requirements that apply to a Principal in respect of its ARs, as described at Annex A of this Notice. One such requirement is that, before a Principal appoints a person as an AR, and on a continuing basis, it must establish on reasonable grounds that the AR is solvent and that the Principal has adequate controls over the regulated activities of, and resources to monitor and enforce compliance with the relevant requirements, by its ARs.
- 4.11 A Principal must also conduct an assessment of the suitability of, and make applications for approval by the Authority on behalf of, persons performing governing functions, such as Directors, at its ARs.

Failings and risks identified

Failure to organise and control its affairs responsibly

- 4.12 The Authority considers that the Firm does not have robust governance in place and is not organising and controlling its affairs responsibly. It also considers that the Firm does not appear clear about what regulated activity is being provided by

the Firm and its ARs, and therefore whether the Firm has adequate controls over its regulated activities.

- 4.13 SeedTribe's day-to-day controllers are two compliance consultants who are not approved persons at SeedTribe. SeedTribe and another regulated firm (at which the two compliance consultants are Directors and approved persons) share a trading name. SeedTribe has informed the Authority that this *"is to utilise the differing permissions held within each"*. On 21 October 2021 SeedTribe informed the Authority that the Firm had conducted no regulated activity under its new trading name since it was added as a trading name on 6 April 2021: *"the business would have been AR business activity in the area of investments, however [...] no regulated activity has been carried out thus far"*. The Authority considers that the shared trading name and the control of SeedTribe by non-approved persons suggest that SeedTribe's approved persons do not have control over their own business, and that SeedTribe lacks robust governance arrangements, putting consumers at risk.
- 4.14 SeedTribe failed to provide management accounts in response to two s165 requirements, finally providing these on 26 November 2021 in response to a further request from the Authority. The management accounts provided show income was received every month between 1 September 2020 and 31 October 2021. This is contradictory to the information contained in the Firm's last four regulatory returns (1 September 2020 to 31 August 2021) and the draft accounts for the year ended 31 August 2021, which show no income or turnover for the period. No explanation for the delay or the contradictions in information was provided by the Firm. The management accounts should have been readily available to the Firm. The Authority considers that the inconsistent financial information provided by the Firm and its inability to provide it in a timely manner, demonstrates a failure by the Firm to organise and control its affairs responsibly, and that the Firm lacks a robust system of governance.
- 4.15 The Firm has twice been required under s165 of the Act to provide information to the Authority. The Firm has been warned of the consequences of not providing the information. Further information requests have also been sent to the Firm. The Firm has not answered all questions asked and the information that was provided lacked the detail required. The Authority sought this information in order to gain a holistic understanding of SeedTribe's business model and review the effectiveness of SeedTribe's onboarding and ongoing oversight of its ARs. This is information which Supervision would have expected SeedTribe to have readily available, since this should have been obtained from the ARs, or created by SeedTribe during its analysis of the ARs, at onboarding. Information required under the s165s and information requests but not provided included:
- (i) Business plans for the ARs;
 - (ii) Personal and corporate financial assessments for the ARs;
 - (iii) Viability assessments and risk assessments for the ARs;
 - (iv) An assessment of the regulatory activity to be undertaken by each AR and whether it is within scope of SeedTribe's permissions; and
 - (v) SeedTribe's reasoning and rationale for onboarding the ARs.
- 4.16 The Firm's failure to provide this information demonstrates key gaps in its controls over the Firm's regulatory activities, in particular in relation to its understanding of its ARs and their business activities.

Firm's understanding of regulated activities

- 4.17 The Authority considers that the Firm does not appear to understand its role as a Principal firm or which activities constitute regulated activities. This is of particular concern given the day-to-day control of SeedTribe not being held by approved persons. Without a clear understanding of the regulated activities, it and its ARs are conducting, SeedTribe cannot organise and control its affairs responsibly with adequate risk management systems in place.
- 4.18 SeedTribe's 2021 Business Model and Strategy does not include any proposed regulated activity. On 3 November 2021, SeedTribe informed Supervision in relation to its business, declining Supervision's proposed VREQ, that "*business is only conducted with high net worth and sophisticated persons and thus outside of scope of regulation*". However, on 26 November 2021, SeedTribe responded to a specific question from Supervision in relation to regulated activity stating that SeedTribe is currently conducting regulated activities.
- 4.19 SeedTribe's differing responses and information in relation to whether or not it is conducting regulated activity suggest that it is unclear about what activities constitute regulated activities. The Authority considers that this poses a risk to consumers
- 4.20 In respect of its ARs, SeedTribe has not provided details of which permissions will be used by its ARs and when the ARs will start to use these. Since SeedTribe has not obtained business plans for the ARs, the Authority cannot assess these to establish what business the ARs will conduct. The information provided by SeedTribe in relation to the ARs suggests that SeedTribe is unclear about the regulated activities that its ARs will conduct:
- (i) on 21 October 2021 SeedTribe informed the Authority that the "*proposed business to be conducted by the ARs is that of investment offerings to high net worth ("HNW") and/or sophisticated investors [...] at this time, all of the businesses are in start up and are therefore planning to go live*". SeedTribe advised Authority that no regulatory activity has been carried out by the ARs "*to date*";
 - (ii) On 26 November 2021, SeedTribe stated that Commune is conducting regulated activities; and
 - (iii) On 3 November 2021, SeedTribe submitted an application to add a further AR which sells whiskey casks, and does not appear to undertake any regulated activity.
- 4.21 The Firm's apparent confusion as to whether or not it is conducting regulated activities itself, and its lack of detail as to the regulated activities its ARs will be conducting suggests that the Firm does not have adequate controls over its regulated activities. This is exemplified by its attempt to onboard an AR which does not appear to have a business model which requires the use of permissions. This lack of adequate control and understanding of regulated activities has the potential to pose a risk to consumers.

Onboarding and ongoing monitoring

4.22 The Authority considers that the Firm's onboarding and ongoing monitoring documentation for its ARs reveals under-developed and inconsistently applied governance and oversight arrangements by the Firm. The FCA would expect a Principal firm to review and assess the AR's proposed business model, financial position and viability at onboarding. Failures in onboarding include the following:

- (i) The template "AR Onboarding checklist" that SeedTribe has provided to Supervision is a one page, A4 document which requires only a completion date, next to each listed activity;
- (ii) The AR Onboarding Checklist includes no requirement that the documents obtained be scrutinised and analysed, nor any requirement that such analysis be recorded. The AR Onboarding Checklist is inadequate for a detailed assessment of each proposed AR during the onboarding process;
- (iii) Onboarding files provided for ASMX, Azure, Acorn and Re-Venue contain no documents which demonstrate any investigations into adverse information and little evidence of scrutiny given by SeedTribe of the documentation provided by the ARs;
- (iv) The onboarding files provided contain no evidence of financial due diligence or an assessment of the solvency of the ARs by SeedTribe.
- (v) No business plans have been provided by the ARs, or assessed by SeedTribe. The Authority would expect a start-up to have a business plan and for this to be assessed by a Principal prior to an AR start-up being onboarded. SeedTribe's failure to assess the ARs' businesses means that it is unable to confirm that the ARs' range of activities fall within the scope of SeedTribe's permissions, or assess risks of viability of the ARs' business models.

AR Onboarding: example 1

4.23 SeedTribe's due diligence on one of its ARs ("AR1") demonstrates, by way of example, the serious failures in the Firm's systems and controls in relation to the onboarding of its ARs. SeedTribe did not obtain the following documents at onboarding for AR1: business plan / model, management accounts, marketing plan, financial projections, copies of bank account statements, or specific detail of the regulated activity AR1 would undertake. SeedTribe did not undertake any assessment of AR1's business model, business plan, financial projections, risk or viability of the business model or firm.

4.24 SeedTribe obtained due diligence in relation to AR1's Director, but no evidence of further investigation into this due diligence. The due diligence included a declaration by the Director that he had been held liable for breach of fiduciary duty, for which he had damages awarded against him for approximately £10m, leading to bankruptcy in 2009 (for which he was discharged one year later).

- 4.25 In response to a question from Supervision in relation to their due diligence on AR1's Director, SeedTribe said *"there was clear evidence to suggest that he had conducted his affairs properly. [...] It is not for SeedTribe to prove guilt or innocence but to assess the risk to the public and there was none"*. Further details of the adverse information were readily discoverable through an internet search using the terms "fraud" and "dishonesty" in connection with the AR1 Director's name. This included that he had been held by a judge to have *"acted dishonestly in breach of fiduciary duty"* and that this was in relation to property fraud.
- 4.26 When assessing whether an AR is suitable at onboarding, a Principal should consider the fitness and propriety (including the good character and competence) and the financial standing of the AR, including its Directors. The due diligence material provided to SeedTribe should have prompted the Firm to assess whether the Director was suitable as a Director of an AR. This should have included further investigation into matters of direct relevance to this question such as a finding of dishonesty against the Director.

AR Onboarding: example 2

- 4.27 SeedTribe did not undertake any due diligence on an individual who attended its AR training on behalf of another of SeedTribe's ARs ("AR2"), and who is named as the main point of contact on SeedTribe's records for AR2. SeedTribe should have challenged AR2 to establish the nature of their relationship with this individual, because he is not linked to AR2 or any AR2 group entity at Companies House and does not appear on AR2's organisation structure, which details over 80 staff.
- 4.28 Publicly available information should have alerted SeedTribe to several adverse media entries regarding a person of the same name as well as Companies House details of a disqualified director who shares his name, disqualified due to a carbon credit scam at another firm. Since SeedTribe did not undertake any due diligence on the individual they have not identified whether he is the same individual referenced in adverse publicly available information. This demonstrates SeedTribe's failure to understand or appropriately monitor their ARs and the ARs' directors and controllers. This absence of due diligence in relation to these individuals means that SeedTribe has made no assessment of the risks that these individuals may pose or their suitability to represent the ARs.

Commune

- 4.29 Commune is the only AR currently conducting regulated activities. From its website it appears to be an investment-based crowdfunder, though as of 28 November 2021 there are no "live" investment propositions. Commune was onboarded as an AR in the same month as AMSX and Re-Venue, and before Acorn. The Authority considers that based on its assessment of deficiencies in the templates for the on-boarding checklist, and in its application by the Firm to ARs onboarded at the same time or after Commune, there is a very strong inference that SeedTribe's onboarding of Commune will contain similar deficiencies.
- 4.30 The Firm's approach to onboarding suggests that it does not sufficiently understand what is required to comply with the Handbook. The lack of analysis of documents and information obtained in relation to the ARs suggests that the Firm does not sufficiently understand the ARs business models or the risks that they pose.

Approved persons at the ARs

- 4.31 Every AR should have one or more person responsible for directing its affairs. These individuals will be performing FCA governing functions and therefore will be required to be FCA approved persons. Under the approved persons regime, the Principal firm is responsible for submitting the application for approval of appointed representatives at the AR. These applications should be submitted as early as possible since a person may not perform a controlled function if he has not been approved by the Authority.
- 4.32 None of SeedTribe's current ARs has an approved person in role. The Authority has checked its systems and has identified that no applications for approved persons have been received by the FCA in relation to any of the ARs. The onboarding files for these ARs do not contain any adequate assessment by SeedTribe of the competence or capability of any key individuals at the ARs to become approved persons.
- 4.33 In relation to AR1, it is clear that although SeedTribe was in possession of information in relation to its Director which should have caused it to make further enquiries about his fitness and propriety, it did not do so.
- 4.34 SeedTribe's failure to conduct adequate due diligence in relation to Directors and those with significant control at the ARs, coupled with its failure to ensure that appropriate approved persons are in role, creates a significant risk that individuals may be directors at the ARs who are not suitable.

Inadequate ongoing monitoring

- 4.35 The Authority would expect a firm's ongoing monitoring to commence once an AR has been onboarded and is on the FCA Register. This would still be required even where the AR is conducting no business, since a Principal needs to ensure that the AR is meeting threshold conditions and, where the AR is purporting to conduct no regulated activities or business, should be monitoring whether this remains the case.
- 4.36 SeedTribe's ongoing monitoring is inadequate and insufficiently robust. Examples include:
- (i) SeedTribe has not provided a risk manual, nor any risk processes which would demonstrate that adequate assessments of ongoing risk are being undertaken;
 - (ii) Whilst a risk category is assigned to each AR, SeedTribe have not provided any information about how risk categories are assessed, what information is reviewed, parameters attached to each risk score or the type of risk the score represents;
 - (iii) Ongoing monitoring reports provided for Acorn, Azure and ASMX are inadequate and insufficiently robust: the questions are high-level and do not provide any indication about what specific information is being audited, and do not include detail on what is reviewed or how results found would result in a pass or fail;

- 4.37 In instances where SeedTribe’s ongoing monitoring has identified an issue with the AR, there is no evidence that SeedTribe has (i) put in place a process or plan put to mitigate or resolve that issue, (ii) identified a target date for mitigation or resolution of the issues, or (iii) allocated responsibility for mitigation or resolution of the issues.

Ongoing monitoring of Acorn

- 4.38 An example of this can be seen in SeedTribe’s October 2021 Acorn review. This review identified financial promotions which may have gone live without approval and identifies that whether the AR is meeting FCA Requirements is dependent on the outcome of an ongoing review. The review also lists PII and ICO Certificates as “*need to be obtained*”. The document does not include a plan to resolve these issues, or list target dates for resolution or responsibility. The October Acorn review is marked overall as “TBC”. Three of the seven areas of review were categorised as “TBC” rather than “pass” or “fail”. One of the three areas marked as “TBC” is the question “have all FCA Principles been observed”, which is marked as “TBC - depending on the outcomes of our ongoing review and investigation”. Acorn remains registered as an AR with the Firm and no further review outcomes have been received by the FCA.
- 4.39 A further example can be seen in SeedTribe’s monitoring of Azure. Azure was added as an AR on 23 December 2020. SeedTribe has informed Supervision that it has conducted no regulated activity. No monitoring appears to have been conducted of Azure prior to July 2021. The ongoing monitoring conducted by SeedTribe in July, August and September 2021 demonstrates clear inadequacies in the documentation and information held by SeedTribe in relation to its AR, which Supervision would have expected to have been assessed prior to onboarding. Gaps identified in the July 2021 review do not appear to have been followed up in the August 2021 review.

Commune

- 4.40 In respect of Commune, the AR which is currently conducting regulated activities. The Authority has not obtained the ongoing monitoring files for Commune, and only learned that it was active on 26 November 2021. All previous evidence provided by the Firm had indicated that no ARs were currently active. The Authority considers that based on its assessment of deficiencies in the templates for the ongoing monitoring checklist, and in their application by the Firm to the other ARs there is a very strong inference that SeedTribe’s ongoing monitoring of Commune will contain similar deficiencies.
- 4.41 The Authority considers that SeedTribe do not have in place effective processes to identify, manage, monitor and report the risks it is or might be exposed to, or internal control mechanisms to manage and mitigate issues it identifies.

5 CONCLUSION

- 5.1 The regulatory provisions relevant to this First Supervisory Notice are set out in the Annex.

Analysis of failings and risks

- 5.2 The Firm has failed to take reasonable care to organise and control its affairs responsibly with adequate risk management systems, in breach of Principle 3. It has failed to adequately assess the suitability at onboarding of the three ARs for which the Authority required information (Azure, Acorn and ASMX), and its former AR Re-Invest (collectively, "the four ARs"), in breach of SUP 12.4.2R:

Failure to establish solvency of the ARs (SUP 12.4.2R(2)(a)):

- 5.3 The Authority considers that the Firm failed to establish on reasonable grounds the solvency of its ARs at onboarding, or on an ongoing basis, in breach of SUP 12.4.2R(2)(a) on the basis that:
- (i) the Firm did not obtain a business plan, management accounts or credit checks for any of the four ARs;
 - (ii) the Firm has provided no evidence that it assessed the solvency of the four ARs, or that it challenged them as to their anticipated business activities;
 - (iii) the Authority does not consider the fact that the ARs are start-ups obviates the need for the Firm to consider and assess their solvency; and
 - (iv) the Firm has provided no evidence that it has assessed solvency on an ongoing basis or made any request for management accounts or business plans for the four ARs.

Failure to establish suitability of the ARs (SUP 12.4.2R(2)(b)):

- 5.4 The Authority considers that the Firm failed to establish on reasonable grounds the suitability of its ARs at onboarding, or on an ongoing basis, in breach of SUP 12.4.2R(2)(b) on the basis that:
- (i) there is no evidence that the Firm has conducted any assessment of, or investigation into, the onboarding documents provided by the ARs;
 - (ii) the Firm has failed to provide any evidence of conducting an assessment into the fitness and propriety of the Directors at each AR. This includes a failure by the Firm to investigate adverse information received from AR1 in relation to its Director, and a failure to ascertain whether the person attending AR training from AR2 as a "significant person" was the same person about whom adverse information appears online; and
 - (iii) the Firm has also failed to ensure that an approved person is in place at each AR, or submit an application for an approved person at the ARs, with the result that no approved person is in role at any of the four ARs.

Failure to have adequate controls over the regulated activities of its ARs (SUP 12.4.2R(2)(c))

- 5.5 The Authority considers that the Firm failed to establish on reasonable grounds it has adequate controls over its ARs regulated activities and resources to enforce compliance with the relevant requirements, in breach of SUP 12.4.2R(2)(c) on the basis that:
- (i) SeedTribe's ongoing monitoring lacks detail and analysis;
 - (ii) there are no approved persons in role at any of the ARs;
 - (iii) SeedTribe has not obtained the four ARs' business plans at and has not conducted an analysis of what regulated activities the four ARs may carry out, whether it has the appropriate permissions for these activities, or whether the ARs have viable business models to support the carrying out of regulated activities; and
 - (iv) SeedTribe has not provided evidence that it understands its ARs' businesses: it therefore cannot exercise adequate controls over the ARs' regulated activities since it does not know what these are.

- 5.6 Based on the failings and risks identified it appears to the Authority that the Firm is failing, or likely to fail, to satisfy the Appropriate Resources Threshold Condition (paragraph 2D of Schedule 6 of the Act), in relation to non-financial resources, on the basis that it appears to the Authority that the Firm has inadequate controls over its own, and the ARs', regulated activities, for example:
- (i) The Firm appears to have ceded control of its business to the Compliance Directors, despite these individuals not being approved persons at the Firm;
 - (ii) The Firm has failed to adequately identify and assess the business of the ARs in order to sufficiently identify and mitigate the risks their activities pose to consumers, or ascertain whether the ARs are conducting, or likely to conduct, activities for which permissions are required; and
 - (iii) The Firm has failed to implement adequate policies and procedures in relation to its oversight of its ARs.
- 5.7 It further appears to the Authority that the Firm is failing, or likely to fail, to satisfy the Suitability Threshold Condition (paragraph 2E of Schedule 6 of Act), that a firm must be a fit and proper person having regard to all the circumstances – including the need to ensure that its affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and whether the business is being, or is to be, managed such a way as to ensure that its affairs will be conducted in a sound and prudent manner – on the basis that it appears to the Authority that:
- (i) The Firm failed to adequately assess the suitability of three of its ARs at onboarding, in breach of SUP 12.4.2R, including failing to assess the solvency, fitness and propriety of its ARs;
 - (ii) The Firm failed to properly oversee and conduct ongoing monitoring of its ARs;
 - (iii) The Firm failed to ensure that an approved person is appointed to its ARs, or to apply for the appointment of approved persons at the ARs, in breach of SYSC 12.4.2R; and
 - (iv) The Firm failed to demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.
- 5.8 The Firm does not appear to understand the business of its ARs and has not conducted adequate due diligence of its ARs or key personnel at the ARs. The ARs may not be suitable to be acting as ARs.
- 5.9 The Authority has concluded, in light of the matters set out above, that it is necessary to exercise its own-initiative power under section 55L(3)(a) of the Act by imposing the Requirements in order to protect the interests of consumers.
- 5.10 The Authority considers that the Requirements are a proportionate and appropriate means to address the current and immediate risks, and are desirable in order to advance the Authority's operational objective of consumer protection.

Timing and duration of the Requirements

- 5.11 It is necessary to impose the Requirements on an urgent basis to take immediate

effect given the seriousness of the risks and the need to protect consumers.

- 5.12 The Authority considers that it is necessary for the Requirements to remain in place indefinitely.

6 PROCEDURAL MATTERS

Decision-maker

- 6.1 The decision which gave rise to the obligation to give this First Supervisory Notice was made by an Authority staff member under executive procedures.
- 6.2 This First Supervisory Notice is given under section 55Y(4) and in accordance with section 55Y(5) of the Act.
- 6.3 The following statutory rights are important.

Representations

- 6.4 The Firm has the right to make written and oral representations to the Authority (whether or not it refers this matter to the Tribunal). The deadline notifying the Authority that the Firm wishes to make oral representations and for providing written representations is 16 December 2021 or such later date as may be permitted by the Authority. The address for doing so is:

Supervision, Policy and Competition Decision Making Secretariat
The Financial Conduct Authority
12 Endeavour Square
London
E20 1JN
Email: SPCDecisionMakingSecretariat@fca.org.uk

- 6.5 The Authority must be informed in writing of any intention to make oral representations by 16 December 2021. If the Authority is not notified by this date, the Firm will not, other than in exceptional circumstances, be able to make oral representations.

The Tribunal

- 6.6 The Firm has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. The Tax and Chancery Chamber is part of the Tribunal which, amongst other things, hears references arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Firm has 28 days from the date on which this First Supervisory Notice is given to it to refer the matter to the Tribunal.
- 6.7 A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by or on behalf of the Firm 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, Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: uttc@hmcts.gsi.gov.uk).
- 6.8 Further information on the Tribunal, including guidance and the relevant forms to complete, can be found on the HM Courts and Tribunal Service website: <http://www.justice.gov.uk/forms/hmcts/tax-and-chancery-upper-tribunal>
- 6.9 The Firm should note that a copy of the reference notice (Form FTC3) must also be

sent to the Authority at the same time as a reference is filed with the Tribunal. A copy of the reference notice should be sent to the Decision Making Secretariat by email: SPCDecisionMakingSecretariat@fca.org.uk.

Confidentiality and publicity

- 6.10 The Firm should note that this First Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining legal advice on its contents).
- 6.11 The Firm should note that section 391(5) of the Act requires the Authority, when the First Supervisory Notice takes effect, to publish such information about the matter to which the notice relates as it considers appropriate.

Authority contacts

- 6.12 Any questions regarding the procedures of the Executive Decision Maker should be directed to the Decision Making Secretariat by email: SPCDecisionMakingSecretariat@fca.org.uk.

Decision made by an FCA Head of Department under Executive Procedures

Annex

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives established in section 1B of the Act include securing an appropriate degree of protection for consumers, and protecting and enhancing the integrity of the UK financial system.
2. Section 55L of the Act allows the Authority to impose a new requirement on an authorised person if it appears to the Authority that the authorised person is failing, or likely to fail to satisfy the Threshold Conditions (section 55L(2)(a)), or it is desirable to exercise the power in order to advance one or more of the Authority's operational objectives (section 55L(2)(c)).
3. Section 55N of the Act allows a requirement to be imposed under section 55L of the Act so as to require the person concerned to take specified action (section 55N(1)(a)), or to refrain from taking specified action (section 55N(1)(b)).
4. Section 55Y(3) of the Act allows a requirement to take effect immediately (or on a specified date) 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 requirement to take effect immediately (or on that date).
5. 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) But the Authority may not publish information under this section if in its opinion, publication of the information would, be unfair to the person with respect to whom the action was taken or proposed to be taken [or] prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
 - (7) Information is to be published under this section in such manner as the Authority considers appropriate.”
6. Under section 39 of the Act, an AR is an unauthorised person that enters into an agreement with an authorised firm under which the AR is able to carry out specific regulated activities under the responsibility of the authorised firm (“the Principal” as defined by section 39 of the Act). The Authority's Rules do not apply directly to ARs, since such persons are not authorised.

RELEVANT REGULATORY PROVISIONS

The Enforcement Guide

7. The Authority's approach in relation to its own-initiative powers is set out in Chapter 8 of the Enforcement Guide (EG), certain provisions of which are summarised below.
8. EG 8.1.1 reflects the provisions of section 55L of the Act by stating that the Authority may use its own-initiative power to impose requirements on an authorised person where, amongst other factors, the person is failing or is likely to fail to satisfy the threshold conditions for which the Authority is responsible (EG 8.1.1(1)), or it is

desirable to exercise the power in order to advance one or more of its operational objectives (EG 8.1.1(3)).

9. EG 8.2.1 states that when the Authority considers how it should deal with a concern about a firm, it will have regard to its statutory objectives and the range of regulatory tools that are available to it. It will also have regard to the principle that a restriction imposed on a firm should be proportionate to the objectives the Authority is seeking to achieve (EG 8.2.1(2)).
10. EG 8.2.3 states that in the course of its supervision and monitoring of a firm or as part of an enforcement action, the Authority may make it clear that it expects the firm to take certain steps to meet regulatory requirements. In the vast majority of cases the Authority will seek to agree with a firm those steps the firm must take to address the Authority's concerns. However, where the Authority considers it appropriate to do so, it will exercise its formal powers under section 55L of the Act to impose a requirement to ensure such requirements are met. This may include where, amongst other factors, the Authority has serious concerns about a firm, or about the way its business is being or has been conducted (EG 8.2.3(1)), or is concerned that the consequences of a firm not taking the desired steps may be serious (EG 8.2.3(2)).
11. EG 8.3.1 states that the Authority may impose a requirement so that it takes effect immediately or on a specified date if it reasonably considers it necessary for the requirement to take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative powers.
12. EG 8.3.2 states that the Authority will consider exercising its own-initiative power as a matter of urgency where: 1) the information available to it indicates serious concerns about the firm or its business that need to be addressed immediately; and 2) 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.
13. EG 8.3.3 states that it is not possible to provide an exhaustive list of the situations that will give rise to such serious concerns, but they are likely to include one or more of four listed characteristics, these include: 1) information indicating significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests; 2) information indicating that a firm's conduct has put it at risk of being used for the purposes of financial crime, or of being otherwise involved in crime; 3) evidence that the firm has submitted to the Authority inaccurate or misleading information so that the Authority becomes seriously concerned about the firm's ability to meet its regulatory obligations; 4) circumstances suggesting a serious problem within a firm or with a firm's controllers that calls into question the firm's ability to continue to meet the threshold conditions.
14. EG 8.3.4 states that the Authority will consider the full circumstances of each case when it decides whether an imposition of a requirement is appropriate and sets out a non-exhaustive list of factors the Authority may consider, these include: the seriousness of any suspected breach of the requirements of the legislation or the rules and the steps that need to be taken to correct that breach (EG 8.3.4(1)); seriousness of breaches (EG 8.3.4(4)); and the firm's conduct.
15. EG 8.3.4(9) includes the impact that use of the Authority's own-initiative powers will have on the firm's business and on its customers. The Authority will need to be satisfied that the impact of any use of the own-initiative power is likely to be proportionate to the concerns being addressed, in the context of the overall aim of achieving its statutory objectives.

The Principles for Business

16. The Principles for Businesses (PRIN) are a general statement of the fundamental obligations of firms under the regulatory system. PRIN 1.1.2R provides that they derive their authority from the Authority's rule-making powers as set out in the Act and reflect the statutory objectives. The Principles are set out at PRIN 2.1.1, and those which are of particular relevance to this Notice are:

Principle 3 (Management and control) provides that a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

The Threshold Conditions

9. The section of the Handbook entitled 'Threshold Conditions' (COND) gives guidance on the Threshold Conditions. COND 1.2.3G provides that the Authority may exercise its own-initiative powers under either section 55J or section 55L of the Act if, among other things, a firm is failing to satisfy any of the Threshold Conditions or is likely to do so.
10. COND 2.4.1A(4) states that the matters which are relevant in determining whether A has appropriate non-financial resources include- (a) the skills and experience of those who manage A's affairs; (b) whether A's non-financial resources are sufficient to enable A to comply with – (i) requirements imposed or likely to be imposed on A by the FCA in the course of the exercise of its functions; (ii) any other requirement in relation to whose contravention the FCA would be the appropriate regulator for the purposes of any provision of Part 14 of this Act.
11. COND 2.5.1A states that: (1) A must be a fit and proper person having regard to all the circumstances, including- [...] (b) the nature (including the complexity) of any regulated activity that A carries on or seeks to carry on; (c) the need to ensure that A's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system; (d) whether A has complied and is complying with requirements imposed by the FCA in the exercise of its functions, or requests made by the FCA, relating to the provision of information to the FCA and, where A has so complied or is so complying, the manner of that compliance; (e) whether those who manage A's affairs have adequate skills and experience and act with probity; (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.
12. COND 2.5.4G states that when assessing whether a firm will satisfy, and continue to satisfy, the Suitability Threshold Condition, examples of the kind of general considerations to which the Authority may have regard include, but are not limited to, whether the firm: (a) conducts, or will conduct, its business with integrity and in compliance with proper standards; (b) has, or will have, a competent and prudent management; and (c) can demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.

The Supervision section of the Authority's Handbook

13. The Authority's Handbook contains specific rules and guidance in relation to ARs within SUP 12.

14. SUP 12.4.2R states that: "Before a firm appoints a person as an AR, [...] and on a continuing basis, it must establish on reasonable grounds that: (1) The appointment does not prevent the firm from satisfying and continuing to satisfy the threshold conditions; (2) The person is (a) solvent; (b) otherwise suitable to act for the firm in that capacity; and (c) has no close links which would be likely to prevent the effective supervision of the person by the firm; (3) The firm has adequate: (a) controls over the person's regulated activities for which the firm has responsibility (see SYSC 3.1 or SYSC 4.1); and (b) resources to monitor and enforce compliance by the person with the relevant requirements applying to the regulated activities for which the firm is responsible and with which the person is required to comply under its contract with the firm (see SUP 12.5.3G(2)); and (4) The firm is ready and organised to comply with the other applicable requirements contained or referred to in this chapter."
15. SUP 12.4.4G states: "In assessing, under SUP 12.4.2 R (2)(b), whether an appointed representative or prospective appointed representative is otherwise suitable to act for the firm in that capacity, a firm should consider: (1) whether the person is fit and proper; guidance on the information that firms should take reasonable steps to obtain and verify is given in SUP 12 Annex 2; and (2) the fitness and propriety (including good character and competence) and financial standing of the controllers, directors, partners, proprietors and managers of the person; firms seeking guidance on the information which they should take reasonable steps to obtain and verify should refer to FIT and the questions in the relevant Form A (Application to perform controlled functions under the approved person regime) in SUP 10A Annex 4."
16. SUP 12.5.5(2)R requires that the contract between a Principal and its AR must contain provision requiring the AR to comply with relevant requirements in or under the Act (including the Authority's rules) that apply to the activities which it carries on as AR of the firm. Under section 59(1) of the Act an authorised person must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by the authorised person in relation to the carrying on by the authorised person of a regulated activity, unless that person is acting in accordance with an approval given by the appropriate regulator under this section.
17. SUP 10A.1.15R confirms that Authority governing functions (including director or chief executive) apply to an AR of a firm as they apply to an Authority authorised person. SUP 10A.6.1G provides further guidance: "(1) every appointed representative will have one or more persons responsible for directing its affairs. These persons will be performing the FCA governing functions and will be required to be FCA-approved persons [...] For example, each director of a company incorporated under the Companies Act will perform an FCA governing function."
18. Chapter 12.6 SUP sets out the continuing obligations that a firm has for its ARs, including overseeing their activities. It is expected that ARs will comply with the Authority's Rules in relation to those regulated activities which they carry on.
19. Under SUP 12.6.1R: "If at any time a firm has reasonable grounds to believe that the conditions in SUP 12.4.2R [...] are not satisfied, or are not likely to be satisfied, in relation to any of its ARs, the firm must: (1) take immediate steps to rectify the matter; or (2) terminate its contract with the appointed representative."
20. SUP 12.6.9G: under the approved persons regime, the firm is responsible for

submitting applications to the Authority for approval as an approved person of (1) any individual who performs a controlled function and who is an appointed representative; and (2) any person who performs a controlled function under an arrangement entered into by any of the firm's appointed representatives. Applications for approval should be submitted as early as possible since a person may not perform a controlled function if he has not been approved by the Authority.