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## **FIRST SUPERVISORY NOTICE**

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**To: Perry Prowse (Insurance Consultants) Ltd**

**Firm  
Reference  
Number: 311916**

**Dated: 13 September 2019**

### **ACTION**

1. For the reasons given below and pursuant to section 55J of the Act, the Authority has decided to vary the permission granted to Perry Prowse pursuant to Part 4A of the Act, by removing all regulated activities with immediate effect. Accordingly, Perry Prowse's Part 4A permission no longer includes the regulated activities of:
  - (a) advising on investments (except on Pension Transfers and Pension Opt Outs);
  - (b) advising on P2P agreements;
  - (c) agreeing to carry on a regulated activity;
  - (d) arranging (bringing about) deals in investments;
  - (e) assisting in the administration and performance of a contract of insurance;

- (f) credit broking;
- (g) dealing in investments as agent;
- (h) making arrangements with a view to transactions in investments; and
- (i) holding and/or controlling client money for its insurance distribution activities.

## **REASONS FOR ACTION**

2. Perry Prowse has failed to provide information to the Authority, despite repeated requests to do so, and has not been open and co-operative in all of its dealings with the Authority, in breach of Principle 11 (Relations with regulators) of the Principles. This includes Perry Prowse's failure to comply with an information requirement issued under section 165 of the Act, and non-submission of regulatory returns in breach of SUP 16.
3. The issue outlined in paragraph 2 above leads the Authority to believe that Perry Prowse is not a fit and proper person to conduct regulated activities, thereby breaching the suitability Threshold Condition.
4. The information that Perry Prowse has failed to provide is required by the Authority to assess the serious issue of whether Perry Prowse is conducting its business with due regard to the interests of consumers. In particular, Perry Prowse has repeatedly failed to provide information to address an allegation that Perry Prowse made unauthorised entries on the Motor Insurance Database and in relation to a complaint by consumers who were unable to claim on their insurance policy bought from Perry Prowse. This failure leads the Authority to consider that Perry Prowse presents a serious risk to consumers because the Authority cannot be satisfied that Perry Prowse's affairs are being conducted with due regard for the interests of its customers, in accordance with Principle 6 (Customers' interests) of the Principles. The Authority also considers that this aggravates Perry Prowse's breach of the suitability Threshold Condition.
5. The Authority considers it necessary to take immediate action to address its serious concerns because there is a significant risk of loss or other adverse effect on consumers and market integrity as a result of Perry Prowse's failings. The Authority's own-initiative power to vary Perry Prowse's Part 4A permissions with immediate effect is an appropriate response to those concerns.

## **DEFINITIONS**

6. The definitions below are used in this First Supervisory Notice:

the "Act" means the Financial Services and Markets Act 2000;

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

the "Handbook" means the Authority's Handbook of Rules and Guidance;

"Perry Prowse" means the regulated firm Perry Prowse (Insurance Consultants) Ltd;

"Perry Prowse's Part 4A permission" means Perry Prowse's permission to conduct regulated activities granted pursuant to Part 4A of the Act;

the "Principles" means the Authority's Principles for Businesses;

the "suitability Threshold Condition" means the Threshold Condition set out in paragraph 2E of Schedule 6 to the Act;

"SUP" means the Authority's Supervision Manual, part of the Handbook;

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**

7. Perry Prowse was authorised by the Authority on 14 January 2005 to conduct regulated insurance broking, credit broking, and investment advisory business.
8. Since 19 February 2019, the Authority has repeatedly requested that Perry Prowse provide a full explanation addressing specific circumstances suggesting issues with insurance policies sold by Perry Prowse to consumers. In particular, the Authority had received information alleging that Perry Prowse had made unauthorised entries on the Motor Insurance Database and had also received information regarding a complaint by consumers who were unable to claim on their policy purchased from Perry Prowse, because the underwriters informed them that the policy did not exist.
9. Since 24 April 2019, the Authority has also requested that Perry Prowse provide a full and detailed explanation (including updates) in relation to IT system issues being faced by the firm.
10. Despite numerous requests by the Authority, including an information requirement issued on 25 June 2019 under section 165(1) of the Act that Perry Prowse provide an explanation addressing the circumstances detailed in paragraphs 8 and 9 above, Perry Prowse has failed without sufficient, or any, explanation to adequately provide the information required by the Authority.
11. Since 13 June 2019, Perry Prowse's regulatory returns for the period ending 30 April 2019 have been overdue.
12. Despite a reminder sent by the Authority to Perry Prowse on 18 June 2019 to submit its regulatory returns, these regulatory returns have not been submitted.

## **FAILINGS**

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

14. From the facts and matters described above, the Authority, having regard to its operational objectives, has reached the following conclusions:
- a. Perry Prowse's unreasonable failure to provide the information requested by the Authority leads the Authority to consider that it is failing to be open and co-operative with the Authority, in breach of the suitability Threshold Condition and Principle 11 (Relations with regulators) of the Principles;
  - b. Perry Prowse's failure to address adequately allegations of unauthorised entries on the Motor Insurance Database and the complaint by consumers who were unable to claim on their policy because it did not exist, leads the Authority to conclude that Perry Prowse presents a risk to consumers because the Authority cannot be satisfied that Perry Prowse's affairs are being conducted in an appropriate manner, having regard in particular to the interests of consumers. This leads the Authority to be concerned that Perry Prowse may not be fit and proper, which aggravates its breach of the suitability Threshold Condition and may also cause it to be in breach of Principle 6 (Customers' interests) of the Principles;
  - c. Perry Prowse's failings in (b) above cause the Authority to have serious concerns about the risk of loss or other adverse effect on consumers who have purchased or may purchase insurance policies from the firm, without actually obtaining any cover or adequate cover; and further, that Perry Prowse's conduct has put it at risk of being used for the purposes of financial crime, or of being otherwise involved in financial crime. These are ongoing risks in that Perry Prowse is currently authorised to continue selling insurance policies to consumers, such that the exercise of the Authority's own-initiative power to vary Perry Prowse's Part 4A permission with immediate effect is an appropriate response to those concerns; and
  - d. It is desirable to exercise the Authority's own initiative power to vary Perry Prowse's Part 4A permission with immediate effect to meet its operational objectives, namely the objectives of the protection of consumers and market integrity.

## **PROCEDURAL MATTERS**

### **Decision Maker**

15. The decision which gave rise to the obligation to give this First Supervisory Notice was made by a Deputy Chair of the Regulatory Decisions Committee.
16. This First Supervisory Notice is given to Perry Prowse under section 55Y(4) and in accordance with section 55Y(5) of the Act, and is being served on Perry Prowse at its principal place of business as last notified to the Authority. The following statutory rights are important.

### **The Tribunal**

17. Perry Prowse 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, Perry Prowse has 28 days from the date on which this First Supervisory Notice is given to it to refer the matter to the Tribunal.

18. A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by Perry Prowse and filed with a copy of this First Supervisory Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, 5<sup>th</sup> Floor, The Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: [uttchmcts.gsi.gov.uk](mailto:uttchmcts.gsi.gov.uk)).
19. For further information on the Tribunal, Perry Prowse 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>
20. Perry Prowse 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 Saad Nasarullah at the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN.

### **Representations**

21. Perry Prowse has the right to make written and oral representations to the Authority. The deadline for providing written representations and also to notify the Authority that Perry Prowse wishes to make oral representations is 1 October 2019, or such later date as may be permitted by the Authority. The address for doing so is:

Jack Williams  
Decision-Making Committees Secretariat  
Financial Conduct Authority  
12 Endeavour Square  
London  
E20 1JN

### **Confidentiality**

22. Perry Prowse should note that this First Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purposes of obtaining advice on its contents).

### **Publicity**

23. Perry Prowse 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**

24. For more information concerning this matter generally, Perry Prowse should contact Saad Nasarullah at the Authority (direct line: 020 7066 1940).
25. If Perry Prowse has any questions regarding the procedures of the Regulatory Decisions Committee, it should contact Jack Williams (direct line: 020 7066 1610).

A handwritten signature in black ink, appearing to read 'Mark', with a long, sweeping horizontal line extending to the right.

**Mark Roberts, DMCS Manager, on behalf of**

**Elizabeth France**  
**Deputy Chair, 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. The Authority is authorised by section 55J of the Act to exercise the following powers:
  - 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)).
3. Section 55Y(3) of the Act allows such a variation 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 to take effect immediately (or on that date).
4. 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."

5. 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 and the integrity of the UK financial system;

(d) whether A 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] ...

[...]

(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**

6. 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**

7. Principle 6 (Customers' interests) of the Principles, states that a firm must pay due regard to the interests of its customers and treat them fairly.

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

#### **Relevant Rule**

9. Rule 16.3.11R in SUP requires that:

"A firm must submit reports required under this chapter to the [Authority] containing all the information required."

10. Rule SUP 16.3.13R requires a firm to submit on time the reports which are required of it.

#### **Guidance concerning the relevant Threshold Condition**

11. 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

12. 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, whether he has complied and is complying with requests made by the Authority, relating to the provision of information to the Authority, the need to ensure that his affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers, and whether his business is being 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)(c),(d) and (f)).
13. 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)(c)).
14. COND 2.5.6G states that examples of 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 has been open and co-operative in all its dealings with the Authority, and whether the firm has contravened any provisions of the Act or the regulatory system (COND 2.5.6G(1) and (4)).

### **OTHER RELEVANT REGULATORY PROVISIONS**

15. The Authority's policy in relation to its enforcement powers is set out in the Enforcement Guide (EG), certain provisions of which are summarised below.
16. EG 8.1 reflects the provisions of section 55J of the Act that the Authority may use its own-initiative power to vary or cancel the permission of 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 8.2.1 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.
18. EG 8.2.3 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 8.2.3(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 8.2.6(1) 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.
20. EG 8.2.6(1)(b) 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 not

to be a fit and proper person to carry on a regulated activity because it has breached requirements imposed on it by or under the Act (including Principles and rules) and the breaches are material in number or individual seriousness (EG 8.2.6(1)(b)(iii)).

21. EG 8.5.2 provides some individual examples of circumstances where 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 not to be a fit and proper person. This includes non-submission of regulatory return, repeated failures to comply with rules or requirements, and failure to co-operate with the Authority which is of sufficient seriousness that the Authority ceases to be satisfied that the firm is fit and proper, for example by failing without reasonable excuse to provide material information reasonably required by the Authority (EG 8.5.2(4), (7) and (8)(b)).

#### Use of the own-initiative powers in urgent cases

22. EG 8.3.1 states that the Authority may impose a variation of permission 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.
23. EG 8.3.2 provides the circumstances in which the Authority will consider exercising its own initiative power as a matter of urgency, including where the information available to it indicates serious concerns about the firm or its business that need to be addressed immediately (EG 8.3.2(1)).
24. EG 8.3.3 sets out a non-exhaustive list of factors the Authority will consider in exercising when assessing 'serious concerns'. EG 8.3.3(1) includes circumstances where information indicates a significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests. EG 8.3.3(2) includes circumstances where information indicates 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.
25. EG 8.3.4 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 loss, or risk of loss, or other adverse effect on consumers (EG 8.3.4(1)); the risk that the firm's conduct or business presents to the financial system and to confidence in the financial system (EG 8.3.4(7)); and the firm's conduct including the firm's compliance culture and steps it has taken or is taking to address the issue (EG 8.3.4(8)).
26. EG 8.5.3 states that, the Authority may need to consider whether it should first use its own-initiative powers to vary a firm's Part 4A permission before going on to cancel it. Amongst other circumstances, the Authority may use this power where it considers it needs to take immediate action against a firm because of the urgency and seriousness of the situation.
27. EG 8.5.4 specifies that where this situation occurs, the Authority may first vary the firm's Part 4A permission so that there is no longer any regulated activity for which the firm has a Part 4A permission. If it does this, the Authority then has a duty to cancel the firm's Part 4A permission, once it is satisfied that it is no longer necessary to keep the Part 4A permission in force.