
FIRST SUPERVISORY NOTICE

To: **UAB Finolita Unio**

Reference Number: **900958**

Address: **J Savickio Str.
4 Vilnius
Vilnius
LITHUANIA**

Date: **10 June 2021**

1 ACTION

1.1 For the reasons given in this First Supervisory Notice, and pursuant to regulation 11(1) of the Electronic Money Regulations 2011 (the "Regulations") applicable to the Firm by virtue of paragraph 2 of Schedule 3 of the Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 ("the TPR Regulations"), the Financial Conduct Authority ("the Authority") has decided to impose the following requirements ("the Requirements") on UAB Finolita Unio ("the Firm"):

- 1) The Firm must not, without the prior written consent of the Authority, issue any electronic money or accept any funds in consideration for the issue of electronic money.
- 2) The Firm must not, without the prior written consent of the Authority, carry out any payment services (as defined in regulation 2(1) of the Payment Services Regulations 2017 ("the PSRs")).
- 3) Any monies received by the Firm in contravention of the requirement in subparagraph (1) or (2) must be immediately returned to the customer.
- 4) Where, as at the time of the imposition of these Requirements, e-money issued by the Firm to clients who are resident in the United Kingdom has been redeemed for the purposes of a payment transaction by the client to whom the e-money was issued, Relevant Funds in respect of these transactions must be used to settle the transactions by 5pm on 11 June 2021.
- 5) As soon as practicable and by no later than 3pm on 17 June 2021, the Firm must pay, to a bank or payment account held in the customer's name, all Relevant Funds held by the Firm in respect of electronic money issued to that customer or payment services provided to that customer in the United Kingdom, except where the Firm is subject to a legal requirement or regulatory requirement preventing it from doing so.

- 6) The Firm must, as soon as practicable and by no later than 3pm on 17 June 2021, return to a bank or payment account held in the customer's name any Funds held by the Firm in respect of electronic money that the Firm was unable to issue or payment service the Firm was unable to provide.
 - 7) The Firm must confirm to the Authority in writing by 5pm on 17 June 2021 that it has complied with the requirements at sub-paragraphs (5) and (6).
 - 8) By 12pm on 11 June 2021, the Firm must provide the Authority with details of all safeguarding accounts in which Relevant Funds are held.
 - 9) The Firm must not, without the prior written consent of the Authority and save as is necessary to comply with these requirements, in any way dispose of, withdraw, transfer, deal with or diminish the value of any of its own assets, and any funds it holds for, or to the order of, its customers (whether in the United Kingdom or elsewhere).
 - 10) By 12pm on 11 June 2021 the Firm must display in a prominent place on all websites used by it in the course of providing electronic money services and/or payment services, including finolita.com, a notice that it no longer permitted to issue electronic money or provide payment services. The wording and format of this notice is to be approved by the Authority before the Firm displays it on any website.
 - 11) By 5pm on 11 June 2021 the Firm must notify all of its customers who are resident in the United Kingdom by email that it is no longer permitted to provide electronic money services or payment services to them and that it will taking all reasonable steps to return all balances of Relevant Funds held by the Firm on their behalf. The form of this notification is to be agreed by the Authority in advance of its being sent.
 - 12) The Firm must confirm to the Authority in writing by 12pm on 12 June 2021 that it has complied with the requirement at sub-paragraph (11).
 - 13) The Firm must secure all books and records and preserve all information and systems relating to electronic money and must retain these in a form and at a location, within the United Kingdom, such that they can be provided to the Authority promptly on its request. The form and location is to be notified to the Authority in writing by 5pm on 11 June 2021.
- 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).
- 1.3 These Requirement apply in respect of e-money issued and payments services provided in the United Kingdom.
- 1.4 In these Requirements references to time are to British Summer Time.

2 REASONS FOR ACTION

Summary

- 2.1 The Firm is an electronic money institution that was authorised by the Bank of

Lithuania until 8 June 2021. It issues electronic money and provides payment services on behalf of corporate clients.

- 2.2 The Firm has temporary permission to issue electronic money and provider payment services in the United Kingdom under the TPR Regulations. While subject to the Temporary Permissions Regime, it is to be taken as an authorised electronic money institution under the Regulations and references to authorised electronic money institutions in the Regulations are to be read as including the Firm.
- 2.3 The Authority has concluded, on the basis of the facts and matters described below that, in respect of the Firm, that it is necessary to exercise its power under regulation 11 of the Regulations to impose the Requirements on the Firm because it no longer meets the conditions set out in regulation 6 of the Regulations and because the Firm failed to inform the Authority of a major change in circumstance, of which it was required to notify the Authority under regulation 37 of the Regulations.
- 2.4 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 putting e-money holders and payment service users at risk.

3 DEFINITIONS

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

“the Act” means the Financial Services and Markets Act 2000, as applied and modified by regulation 62 and Schedule 3 of the Regulations;

“AML” means anti-money laundering;

“the Authority” means the Financial Conduct Authority;

“CTF” means counter-terrorist financing;

“the Firm” means UAB Finolita Unio;

“the PSRs” means the Payment Services Regulations 2017;

“Regulations” means the Electronic Money Regulations 2011;

“Relevant Funds” has the meaning given in regulation 20(1) of the Regulations (for electronic money services) and regulation 23(1) of the PSRs (for payment services);

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

“Temporary Permissions Regime” means the regime set out at Schedule 3, Part 1 of the TPR Regulations;

“TPR Regulations” means The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018; and

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

4 FACTS AND MATTERS

Background

- 4.1 The Firm is an authorised electronic money institution that is based in Vilnius, Lithuania. Until 8 June 2021 the Firm had an e-money institution licence, which was issued by the Bank of Lithuania, the Lithuanian central bank and financial services regulator. It is a subsidiary of Senjo Group Pte. Ltd., a Singaporean company.
- 4.2 The Firm previously provided e-money and payment services to customers in the United Kingdom pursuant to passporting arrangements. It currently provides services to customers in the United Kingdom under the Temporary Permissions Regime. This regime applied from 11pm on 31 December 2020, as a result of the end of the transitional period that followed the United Kingdom's withdrawal from the European Union.

Failings and risks identified

Anti-Money Laundering and Counter-Terrorist Financing

- 4.3 On 8 June 2021 the Bank of Lithuania announced that it had revoked the Firm's licence, as a result of severe infringement of anti-money laundering ("AML") and counter-terrorist financing ("CTF") requirements. This followed an investigation that the Bank of Lithuania started in autumn 2020. The Bank of Lithuania found that "[the Firm] failed to assess money laundering and terrorist financing risks of its customers, acted with negligence when establishing and checking [the] identity of its customers and beneficial owners, failed to identify the nature of activities of legal entities, improperly monitored business relationships and operations of customers and failed to comply with the requirements related to the implementation of international financial sanctions and enforcement measures. It also inadequately monitored the operations performed by the persons related to the company and did not analyse the grounds and objectives of large transactions made by these persons."
- 4.4 In addition to this, prior to the announcement by the Bank of Lithuania, the Authority sought information about the Firm's AML and CTF controls. The Authority issued an information requirement to the Firm under section 165 of the Act on 3 June 2021. This required the Firm, by 8 June 2021, to tell the Authority the current number of UK customers and current safeguarded balance for UK customers and to provide information about its AML and CTF processes and procedures. The Firm failed to comply with this requirement by 8 June 2021 and did not respond until 9 June 2021.

Relations with the FCA

- 4.5 The Firm failed to inform the FCA of the investigation by the Bank of Lithuania into its AML and CTF systems and controls. It also failed to inform the Authority of the departure of its Chief Compliance and Risk Officer.

Customers and customer assets

- 4.6 Following the announcement by the Bank of Lithuania, on 8 June 2021 the Firm contacted the Authority to inform it of the Bank of Lithuania's findings. The Authority contacted the Firm and asked it again to provide to the Authority with the current number of UK customers and current safeguarded balance for UK

customers. The Firm informed the Authority that it could not immediately provide this information. It asked for an extension of time to provide this information until 11 June 2021 and subsequently provided the information on 9 June 2021, following further intervention by the Authority.

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 As a result of the above, the Authority considers that the Firm has failed to operate adequate AML and CTF systems and controls. The Authority also considers that the Firm does not have adequate systems to enable it to identify the number of UK customers and the safeguarded balances for UK customers. Therefore, the Authority considers that the Firm has breached the following:

- Regulation 6(5)(a) of the Regulations, in that the firm does not have effective procedures to identify and control the money laundering and terrorist financing risks to which it is exposed;
- Regulation 6(5)(c) of the Regulations, in that the firm does not have sound administrative and accounting procedures to enable it to comply with information requirements or readily to identify the number of UK customers and those customers' safeguarded balances;
- Regulation 6(6)(b) of the Regulations, in that – as a result of the conclusions reached by the Bank of Lithuania following its investigation - the directors and persons responsible for the management of its e-money and payment services are not of good repute; and
- Regulation 37 of the Regulations, in that the Firm failed to inform the Authority without undue delay of the investigation by the Bank of Lithuania.

5.3 The Authority also considers that the Firm has breached the following of the Authority's Principles for Businesses:

- Principle 2 of the Authority's Principles for Businesses (Skill, care and diligence), in that the firm does not have sound administrative and accounting procedures to enable it to comply with information requirements or readily to identify the number of UK customers and those customers' safeguarded balances;
- Principle 3 of the Authority's Principles for Businesses (Management and control), in that the firm does not have effective procedures to identify and control the money laundering and terrorist financing risks to which it is exposed;
- Principle 11 of the Authority's Principles for Businesses (Relations with regulators), in that the Firm failed to inform the Authority without undue delay of the investigation by the Bank of Lithuania.

- 5.4 The Authority has concluded, in light of the matters set out above, that it is necessary to exercise its own-initiative power under regulation 11 of the Regulations by imposing the Requirements to stop the Firm conducting regulated activities because the Firm no longer meets the conditions of authorisation as set out in this First Supervisory Notice. In addition, we consider it necessary to take this action in order to ensure the stability of and trust in payment systems and to protect the interests of money holders and payment service users.
- 5.5 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

- 5.6 It is necessary to impose the Requirements on an urgent basis given the seriousness of the risks and the need to protect consumers.
- 5.7 The Authority considers that it is necessary for the Requirements to remain in place indefinitely.

6 PROCEDURAL MATTERS

- 6.1 This First Supervisory Notice is given under regulation 11(6) of the Regulations and in accordance with regulation 11(7) of the Regulations.

Decision-maker

- 6.2 The decision which gave rise to the obligation to give this First Supervisory Notice was made by David Geale. David Geale is a Director in the Retail Banking and Payments Division. This First Supervisory Notice is issued in accordance with the Authority's Urgent supervisory notice cases procedure (DEPP 3.4.3G). For the reasons set out above the Authority considers this to be an exceptionally urgent case.
- 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 for providing written representations and/or notifying the Authority that the Firm wishes to make oral representations is 24 June 2021 or such later date as may be permitted by the Authority. The address for doing so is:

Paul Ullah
The Financial Conduct Authority
12 Endeavour Square
London
E20 1JN
Email: paul.ullah@fca.org.uk

The Tribunal

- 6.5 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 the 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.

- 6.6 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).
- 6.7 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/frms/hmcts/tax-and-chancery-upper-tribunal>
- 6.8 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 [Supervisor] at the Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN.

Confidentiality and publicity

- 6.9 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).
- 6.10 The Firm should note that section 391(5) of the Act requires the Authority, when this First Supervisory Notice takes effect, to publish such information about the matter to which the notice relates as it considers appropriate.

Authority contact

- 6.11 For more information concerning this matter generally, contact Paul Ullah at the Authority (paul.ullah@fca.org.uk; (020) 7066 5104).

David Geale
Director, Retail Banking and Payments Division

Annex

RELEVANT STATUTORY PROVISIONS

1. Regulation 7(1) of the Regulations provides that the Authority may include in the authorisation of an authorised electronic money institution such requirements as it considers appropriate. Regulation 7(2) of the Regulations provides that a requirement may, in particular, be imposed so as to require the person concerned to take a specified action or to refrain from taking a specified action.
2. Regulation 8 of the Regulations provides that the Authority may, on the application of an authorised electronic money institution, vary that person's authorisation by, among other things, imposing a requirement such as may, under regulation 7 of the Regulations, be imposed in an authorisation.
3. Regulation 11(1) of the Regulations provides that the Authority may vary the authorisation of an electronic money institution in any of the ways mentioned in regulation 8 if it appears to the Authority that the variation is desirable in order to protect the interests of consumers.
4. Regulation 11(2) of the Regulations provides that a variation takes effect immediately if the notice given under regulation 11(6) states that this is the case. Regulation 11(3) of the Regulations provides that a variation may be expressed to take effect immediately only if the Authority, having regard to the ground on which it is exercising the power under paragraph 11(1), reasonably considers that it is necessary for the variation to take effect immediately.
5. Regulation 11(6) of the Regulations provides that, where the Authority proposes to vary a person's authorisation, it must give the person notice.
6. Section 391 of the Act, as applied in modified form by paragraph 8 of schedule 3 to the Regulations, provides that when a supervisory notice takes effect, the Authority must publish such information about the matter to which the notice relates as it considers appropriate. However, the Authority may not publish information 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.
7. Under paragraph 2 of Schedule 3 of the TPR Regulations, the Firm is to be taken to be an authorised electronic money institution whose authorisation under Regulation 9 of the Regulations relates to the services it was entitled to provide in the UK in the exercise of a passport right as an EEA authorised electronic money institution. As such, references in the Regulations (subject to exclusions in paragraph 7 of Schedule 3 of the TPR Regulations), including under those provisions above, are to be read as including the Firm.

RELEVANT REGULATORY PROVISIONS

Principles for Businesses

8. Principle 2 of the Authority's Principles for Businesses states that a firm must conduct its business with due skill, care and diligence.

9. Principle 3 of the Authority's Principles for Businesses states that a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
10. Principle 11 of the Authority's Principles for Businesses states that a firm must deal with its regulators in an open and cooperative way, and must disclose to the FCA appropriately anything relating to the firm of which that regulator would reasonably expect notice.

Decision Procedure and Penalties Manual (DEPP)

11. DEPP 3.4.3G states that, In an exceptionally urgent case the decision to give a supervisory notice may be taken by a member of the FCA's executive of at least director of division level if FCA staff consider that the action should be taken before a recommendation to the Chairman or a Deputy Chairman of the RDC can be made and an urgent decision on the proposed action is necessary to protect the interests of consumers.

The Enforcement Guide

12. The Authority's approach in relation to its enforcement powers is set out in Chapter 8 of the Enforcement Guide (EG), certain provisions of which are summarised below.
13. EG 19.23 outlines the Authority's approach to enforcing the provisions of the Regulations. EG 19.23.4 provides that the Regulations, for the most part, mirror the Authority's investigative, sanctioning and regulatory powers under the Act and that the Authority has decided to adopt procedures and policies in relation to the use of those powers akin to those it has under the Act.
14. The Authority considers that the powers under regulation 11(1) of the Regulations are similar to those under sections 55L of the Act and that the provisions of EG 8: "Variation and cancellation of permission and imposition of requirements on the FCA's own initiative and intervention against incoming firms" are applicable.
15. EG 8.2.1 states 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. It will also have regard to the responsibilities of a firm's management to deal with concerns about the firm or about way its business is being or has been run and 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)).
16. 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)).
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 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.

18. 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.
19. 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.
20. 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:
 - a. The extent of any risk of loss or other adverse effect on consumers;
 - b. The extent to which customer assets appear to be at risk;
 - c. The seriousness of any suspected breach of the requirements of the legislation or rules;
 - d. The risk that the firm's business may be used or has been used to facilitate financial crime, including money laundering;
 - e. The risk that the firm's conduct or business presents to the financial system and to confidence in the financial system; and
 - f. The firm's conduct, including whether the firm brought the issue promptly to the FCA's attention.
21. 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.