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## SECOND SUPERVISORY NOTICE

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**To:** Rix Motor Company Limited

**Of:** Hawleys Lane, Warrington, Cheshire WA2 8JP

**FCA reference number:** 656238

**Dated:** 27 December 2019

### DIRECTIONS

1. By a First Supervisory Notice dated 22 November 2019, the Financial Conduct Authority (the FCA) directed Rix Motor Company Limited (Rix Motors) to withdraw from its websites [www.rixmotors.co.uk](http://www.rixmotors.co.uk), [www.accept-car-finance.co.uk](http://www.accept-car-finance.co.uk) and [www.carfinance-4u.co.uk](http://www.carfinance-4u.co.uk) and from its Instagram account [@r.x.motor](https://www.instagram.com/r.x.motor) all communications relating to credit broking which do not:
  - a) prominently state that Rix Motor Company Limited is a credit broker where it is acting as such;
  - b) give prominent representative examples in accordance with CONC 3.5.5R where the communication indicates a rate of interest or an amount relating to the cost of credit whether expressed as a sum of money or a proportion of a specified amount; or
  - c) where using a trading name, all communications which do not give the legal name of the firm.
2. By the same First Supervisory Notice, the FCA also directed Rix Motors to refrain from making any communication relating to credit broking which does not:

- (a) prominently state that Rix Motor Company Limited is a credit broker where it is acting as such;
  - (b) give prominent representative examples in accordance with CONC 3.5.5R where the communication indicates a rate of interest or an amount relating to the cost of credit whether expressed as a sum of money or a proportion of a specified amount; and
  - (c) where using a trading name, to refrain from making any communications which do not give the legal name of the firm.
3. The above directions were made for the reasons set out below and pursuant to section 137S(1) and (2) of the Financial Services and Markets Act 2000 (the Act).
4. Having considered Rix Motors' representations made in respect of the First Supervisory Notice, the FCA has decided for the reasons set out below:
- (a) to revoke the directions at paragraph 1 above; and
  - (b) not to revoke or amend the directions at paragraph 2 above.

#### **SUMMARY REASONS FOR GIVING THE DIRECTIONS UNDER THE FIRST SUPERVISORY NOTICE**

5. Rix Motors is authorised by the FCA with permissions which include credit broking and entering into regulated credit agreements as lender.
6. The FCA considered that Rix Motors' Instagram account and the websites referred to above (which include the websites of trading names of Rix Motors) contained communications which contravened the financial promotion rules contained in Chapter 3 (Financial promotions and communications with customers) part of the FCA's Consumer Credit Sourcebook (known as CONC).
7. The FCA considers giving the above directions to be proportionate in the circumstances, particularly given the FCA's financial promotions team has on two previous occasions identified contraventions by Rix Motors' of the same nature as the communications this Notice directs Rix Motors to withdraw.
8. Financial promotions can form a significant part of a consumer's product knowledge, and can influence a consumer's decision making when choosing a product. A failure to comply with applicable financial promotions rules poses a risk to consumers being able to make informed decisions.

#### **FACTS AND MATTERS CONCERNING THE COMMUNICATIONS**

##### **Instagram posts @r.x.motor**

##### Failure to provide a representative example

9. In October 2019, the FCA identified a number of Instagram posts from this account which provide weekly and monthly repayment amounts for vehicle finance which is information relating to the cost of credit.
10. CONC 3.5.3R(1) provides that where a financial promotion indicates a rate of interest or an amount relating to the cost of credit whether expressed as a sum

of money or a proportion of a specified amount, the financial promotion must include a representative example given in accordance with CONC 3.5.5R.

11. These communications did not provide a representative example and they therefore contravened CONC 3.5.3R(1).

#### Failure to provide a credit broker statement

12. As above, Rix Motors has permission from the FCA to act as a credit broker and a credit lender. The @r.x.motor Instagram posts relate to its activities as a credit broker.
13. CONC 3.7.7R(2) provides that a firm which is both a credit broker and a lender must ensure that any financial promotion that solely promotes its services as a credit broker states prominently that the financial promotion is promoting the firm's services as a credit broker and not its services as a lender.
14. The communications did not provide a prominent statement that these advertisements related to Rix Motors' credit broker activities and they therefore contravened CONC 3.7.7R(2).

#### **Website [www.rixmotors.co.uk](http://www.rixmotors.co.uk)**

##### Failure to provide a credit broker statement

15. The Rixmotors.co.uk website relates to its activities as a credit broker. As above, CONC 3.7.7R(2) provides that a firm which is both a credit broker and a lender must ensure that any financial promotion that solely promotes its services as a credit broker states prominently that the financial promotion is promoting the firm's services as a credit broker and not its services as a lender.
16. The website did not provide a prominent statement that the communication promotes Rix Motors' services as a credit broker. The communication therefore breached CONC 3.7.7R(2).

#### **Website [www.accept-car-finance.co.uk](http://www.accept-car-finance.co.uk)**

##### Failure to provide a prominent representative example

17. The Accept-car-finance.co.uk homepage provided information relating to the cost of credit available per month. As above, CONC 3.5.3R(1) provides that where a financial promotion indicates a rate of interest or an amount relating to the cost of credit whether expressed as a sum of money or a proportion of a specified amount, the financial promotion must include a representative example given in accordance with CONC 3.5.5R.
18. CONC 3.5.5R(1) provides the items of information that a representative example must comprise. CONC 3.5.5R(5)(d) includes that the representative example must be given no less prominence than any other information relating to the cost of credit in the financial promotion.
19. The communication provided a representative example which related to this cost of credit but this only appears further down the webpage. The representative example could therefore have been easily overlooked. It was

therefore not given the same prominence as the information relating to the cost of credit and the communication contravened CONC 3.5.5R(5)(d).

#### Failure to reference a broker statement

20. The Accept-car finance.co.uk website contained a credit broker statement which appeared at the bottom of the home page.
21. As above, CONC 3.7.7R(2) states that a firm which is both a credit broker and a lender must ensure that any financial promotion that solely promotes its services as a credit broker states prominently that the financial promotion is promoting the firm's services as a credit broker and not its services as a lender.
22. The inclusion of the credit broker statement at the bottom of the home page did not in the FCA's view give sufficient prominence to the statement. This communication therefore contravened CONC 3.7.7R(2).

#### **Website [www.carfinance-4u.co.uk](http://www.carfinance-4u.co.uk)**

#### Failure to provide a representative example

23. The Carfinance-4u.co.uk website homepage provides information relating to the cost of credit.
24. As above, CONC 3.5.3R(1) provides that where a financial promotion indicates a rate of interest or an amount relating to the cost of credit whether expressed as a sum of money or a proportion of a specified amount, the financial promotion must include a representative example given in accordance with CONC 3.5.5R.
25. This communication did not provide a representative example and therefore contravenes CONC 3.5.3R(1).

#### Failure to reference a credit broker statement

26. The Carfinance-4u.co.uk website relates to its activities as a credit broker. The website did not provide a prominent statement that these adverts relate to Rix Motors' credit broker activities.
27. The website Carfinance-4u.co.uk is therefore breached CONC 3.7.7R(2) which requires that, where a firm is a credit broker and a lender, any financial promotion that solely promotes its services as a credit broker states prominently that the financial promotion is promoting the firms' services as a credit broker and not its services as a lender.
28. In addition, the website did not include the legal name of the firm. CONC 3.7.5R states that a firm must ensure that a financial promotion or a communication with a customer specifies the legal name of the firm as it appears in the Financial Services Register and not merely a trading name. This communication therefore contravened CONC 3.7.5R.

## **Previous concerns relating to Financial Promotions Rules**

29. The context in which the FCA's Financial Promotions Team (FPT) sought the directions given under the First Supervisory Notice is that FPT had substantively engaged with Rix Motors on two previous occasions in relation its communications, which FPT considered were contravening financial promotions rules.
30. In August 2017, FPT identified that the firm had failed to provide representative examples and prominent credit broker statements on its Accept Car Finance website and on an Accept Car Finance advertising banner. Rix Motors addressed these concerns following FPT engagement and the FPT's engagement ended in November 2017.
31. In October 2018, FPT identified further contraventions of financial promotions rules on the Accept Car Finance website. These repeated the August 2017 failure to include representative examples and broker statements where required. Rix Motors had also used wording that FPT considered misleading to consumers. FPT identified further contraventions of financial promotions rules within eBay adverts issued by Rix Motors.
32. FPT issued a letter to the firm in November 2018 requesting that Rix Motors address these concerns. The FPT letter also provided Rix Motors with information about the FCA's power to give directions in relation to contraventions of financial promotions rules by authorised persons under s137s FSMA.
33. In addition to this, the letter requested that Rix Motors reviewed all communications and that FCA rules apply regardless of the media in which its communications to customers are made. Rix Motors addressed these concerns following FPT engagement and the case was closed on 29 November 2018.

## **Reason for revoking direction at paragraph 1**

34. The FCA notes that the financial promotions on the above referred three websites and the above referred Instagram account were amended shortly after the First Supervisory Notice was issued on 22 November 2019. It is for this reason that the FCA has decided to revoke the direction cited at paragraph 1 above.

## **Reason for not revoking or amending the direction at paragraph 2**

35. The FCA has also considered whether to amend or revoke the direction cited at paragraph 2 above. In the context of FPT's previous concerns relating to the previously temporary nature of Rix Motors' compliance with Financial Promotions Rules, the FCA considers it appropriate not to revoke or amend the direction at paragraph 2.

## **PROCEDURE**

### **Decision Maker**

36. The decision which gave rise to the obligation to give this Notice was made by the Regulatory Transactions Committee in accordance with DEPP 4.1.
37. This Notice is given to Rix Motors under section 137S(8),(9) and (10) of the Act.

### **Publication**

38. In accordance with section 137S(11) of the Act, the period for making representations in relation to the Direction having ended, the FCA intends to publish such information about the matter as it considers appropriate.

### **FCA contacts**

39. For more information concerning the procedures relating to this Notice or this matter generally, Rix Motors should contact Claudine Hilton at the FCA (*direct line: 020 7066 0922, email [claudine.hilton@fca.org.uk](mailto:claudine.hilton@fca.org.uk)*).

**Val Smith**  
**Chair of the Regulatory Transactions Committee**

## **ANNEX A - RIX MOTOR COMPANY'S REPRESENTATIONS ON THE DIRECTION**

This Annex sets out a summary of the representations made by Rix Motors in relation to the "Facts and Matters Concerning the Promotions" section of the Notice and the FCA's response to those representations.

### Rix Motors' representations

*Rix Motors confirmed they took immediate action and have withdrawn from its websites [www.rixmotors.co.uk](http://www.rixmotors.co.uk), [www.accept-car-finance.co.uk](http://www.accept-car-finance.co.uk) and [www.carfinance-4u.co.uk](http://www.carfinance-4u.co.uk) and from its Instagram account @r.x.motor all communications relating to credit broking which are not in accordance with CONC 3.5 5R. Rix Motors stated they have also ensured that when using a trading name, that they have stated the legal name of the firm, and have made it more prominent that they are a credit broker.*

### FCA's response

*The FCA notes that the financial promotions on 3 websites and 1 Instagram page were amended shortly after the First Supervisory Notice was issued on 22 November 2019.*

### Rix Motors' representations

*Rix Motors asserted that although it has permissions to lend, it does not actively promote or advertise this fact as its lending is purely for purchasing accessories/dealer guarantees whereby the customer would rather pay for the cost over a short term to keep within their financial budget. Rix Motors stated they do not lend for the car purchase itself and all short term loans are completely interest and fee free. Rix Motors has since been advised that due to the amount of money lent in total at any one time, it can apply to have these permissions removed, which is something that it is looking into.*

### FCA's response

The FCA notes the firm's use of its lending permissions and that it is considering removing this permission based on its current activities. Where a firm is both a credit broker and a lender it must ensure that any financial promotion that solely promotes its services as a credit broker states prominently that the financial promotion is promoting the firm's services as a credit broker and not its services as a lender as required by CONC 3.7.7R (2).