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## FINAL NOTICE

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**Diane Hunter**  
**t/a Village Autocare**  
**190-194 St. Mary's Road**  
**Garston**  
**Liverpool**  
**Merseyside**  
**L19 2JJ**

12 August 2015

### **ACTION**

1. By an application dated 6 August 2014 ("the Application") Diane Hunter trading as Village Autocare ("the Firm") applied under section 55A of the Financial Services and Markets Act 2000 ("the Act") for Part 4A permission to carry on the regulated activities of limited permission credit broking.
2. The Application is incomplete.
3. For the reasons listed below, the Authority has refused the Application.

### **SUMMARY OF REASONS**

4. By its Warning Notice dated 12 May 2015 ("the Warning Notice") the Authority gave notice that it proposed to refuse the Application and that the Firm was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from the Firm within the time allowed by the Warning Notice, the default procedures in paragraph 2.3.2 of the Authority's Decision Procedure and Penalties Manual apply,

permitting the Authority to treat the matters referred to in its Warning Notice as undisputed and, accordingly, to give a Decision Notice.

6. The Firm has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that the firm will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
7. By its Decision notice dated 1 July 2015 ("the Decision Notice"), the Authority gave the Firm notice that it had decided to take the action described above.
8. The Firm had 28 days from the date the Decision Notice was given to refer the matter to the Upper Tribunal (formerly known as the Financial Services and Markets Tribunal). No referral was made to the Upper Tribunal within this period of time or to date.
9. Under section 390 (1) of the Act, the Authority, having decided to refuse the Application and there having been no reference of that decision to the Tribunal, must give the Firm Final Notice of its refusal.
10. The Authority decided to refuse the Application and to give this Final Notice as the Firm has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that the Firm will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.

## **DEFINITIONS**

11. The definitions below are used in this Final Notice.

"The Firm" means the applicant Diane Hunter trading as Village Autocare

"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

## **FACTS AND MATTERS**

12. The Application was received by the Authority on 6 August 2014.
13. By email dated 7 August 2014 further information was requested from the Firm, as follows:
  - i. To confirm the legal status of the business;
  - ii. If a sole trader, to provide details of a locum who would deal with the business in Diane Hunter's absence;
  - iii. To describe the regulated activities the Firm intends to carry out;
  - iv. To provide an outline of the lender to whom customers are referred and copies of documentation used;

- v. To provide an outline of the relevant skills, knowledge and experience of Diane Hunter and any key personnel carrying out the credit activity; and
- vi. To explain the projected annual income figure that was given in the application.

14. Details of all the relevant communications between the Authority and the Firm are set out below:

- (1) On 7 August 2014 the Authority sent an email to the Firm setting out further information that was needed in order to assist in the determination of the application. A target reply date of 14 August 2014 was provided.
- (2) On 15 August 2014 the Authority sent an email to the Firm, asking for confirmation of when the requested information would be received.
- (3) On 19 August 2014 the Authority sent an email to the Firm requesting acknowledgement of the communications to date and an indication as to when the Firm would reply.
- (4) On 1 September 2014 the Authority sent a further email to the Firm requesting a reply by no later than 9 September 2014.
- (5) On 17 September 2014 the Authority telephoned Diane Hunter who confirmed receipt of the emails listed above and a voicemail left on 12 September 2014 but had been out of contact. Diane Hunter confirmed the wish to proceed with the application as a sole trader. Confirmation of this was requested.
- (6) On 17 September 2014 the Authority received an email from the firm offering an apology for any inconvenience and indicating among other matters that the business is a partnership and not a sole trader.
- (7) On 17 September 2014, the Authority sent an email to the firm which detailed the further documentation required for a partnership (such as who is to hold the controlled functions and details of the controllers) and requested a reply by 24 September 2014.
- (8) On 18 September 2014 the Authority received a telephone call from the General Manager of the Firm. The General Manager indicated that Diane Hunter was unavailable having had personal issues to deal with lately and that the business remained confused as to what to submit. The previously requested information was reiterated. With regard to any issues regarding submission via Connect the Authority referred the General Manager to the FCA Contact Centre.
- (9) On 24 September 2014 the Authority sent a further email to the Firm chasing the information still required.
- (10) On 14 October 2014 the Authority sent an email to the Firm asking it to contact the Authority or provide alternative contact details in order to expedite matters.
- (11) On 21 October 2014 the Authority sent a chaser email to the Firm requesting a reply by no later than 28 October 2014.

- (12) On 29 October 2014 the Authority telephoned the Firm. During that conversation Diane Hunter indicated that the business is definitely a partnership and Ms. Hunter gave the name of the controlling partner. Ms. Hunter asked again what was required and the Authority referred her to previous correspondence. Ms. Hunter indicated that there was no plan at that time to withdraw and/or reapply. A written reply to the issues raised in the email exchanges was requested. Nothing was received.
  - (13) On 17 November 2014 the Authority telephoned Diane Hunter. Ms. Hunter indicated that she was awaiting documentation and planned to reply before the end of that week.
  - (14) On 27 November 2014 the Authority telephoned Diane Hunter. Ms. Hunter said she had been off sick, would get the file out and revert the same day. No response was received.
  - (15) On 1 December 2014 the Authority sent an email to the Firm and requested a reply by no later than 8 December 2014. The email noted that the application was incomplete and warned that the Firm would face a Warning Notice if it continued to fail to provide the information requested. No response was received.
  - (16) On 9 December 2014 the Authority sent a letter by special delivery and by email to the Firm at the address given for correspondence on the application form and requested a reply by 16 December 2014. The letter enclosed a copy of the request dated 17 September 2014, noted that the application was incomplete, and warned that the Firm would face a Warning Notice if it continued to fail to provide the information requested. The letter was signed for on 11 December 2014 (printed name provided as 'Village'). No response was received.
  - (17) On 17 December 2014 the Authority sent a letter by special delivery and by email to the Firm at the address given for correspondence on the application form and requested a reply by 2 January 2015. The letter enclosed a copy of the request dated 17 September 2014, noted that the application was incomplete, and warned that the Firm would face a Warning Notice if it continued to fail to provide the information requested. The letter was signed for on 18 December 2014 (printed name provided as 'Autocare'). No response was received.
15. The Authority has not received any of the information requested in the email dated 17 September 2014. The last time the Authority received any communication from the Firm was 27 November 2014.

## **IMPACT ON THRESHOLD CONDITIONS**

16. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
17. By virtue of the Firm's failure to provide the requested information and, after 27 November 2014, the Firm's failure to reply at all to the Authority's correspondence, the Authority cannot ensure that the Firm will satisfy, and will continue to satisfy, the following threshold conditions:

2C (Effective Supervision)

- i. The Firm's failure to provide the Authority with the requested information calls into question whether the Authority would be able to obtain (on an ongoing basis) sufficient information about the Firm and its activities such that the Authority would be able to effectively supervise the Firm.

#### 2D (Appropriate Resources)

- ii. In failing to engage with the Authority, the Firm has failed to demonstrate that it has appropriate human resources.

#### 2E (Suitability)

- iii. In failing to respond to the Authority's requests and correspondence in the manner set out above, the Firm has failed to demonstrate that it is ready, willing and organised to comply with the standards and requirements of the regulatory system (including the need to be open and co-operative with the Authority) and has failed to demonstrate that it is fit and proper.

18. On the basis of the facts and matters described above, the Authority has concluded that the Firm will not satisfy, and continue to satisfy, the threshold conditions in relation to the regulated activity for which it would have permission if the Application was granted.

### **IMPORTANT NOTICES**

19. This Final Notice is given under section 390(1) of the Act.

#### **Publication**

20. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Notice relates. Under those provisions, the Authority must publish such information about the matter to which this Notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

21. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

#### **Authority contacts**

22. For more information concerning this matter generally, contact Kate Pitt, Manager, Credit Authorisations Division at the Authority (direct line: 020 7066 0714 / email: [kate.pitt@fca.org.uk](mailto:kate.pitt@fca.org.uk)).

**Nicholas Mears**  
**on behalf of the Regulatory Transactions Committee**

## **ANNEX A – REGULATORY PROVISIONS RELEVANT TO THIS FINAL NOTICE**

### **Relevant Statutory Provisions**

1. Section 55A(1) of the Act provides for an application for permission to carry on one or more regulated activities to be made to the appropriate regulator. Section 55A(2) defines the “appropriate regulator” for different applications.
2. Section 55B(3) of the Act provides that, in giving or varying permission, imposing or varying a requirement, or giving consent, under any provision of Part 4A of the Act, each regulator must ensure that the person concerned will satisfy, and continue to satisfy, in relation to all of the regulated activities for which the person has or will have permission, the threshold conditions for which that regulator is responsible.
3. The threshold conditions are set out in schedule 6 of the Act. In brief, the threshold conditions relate to:
  - (1) Threshold condition 2B: Location of offices
  - (2) Threshold condition 2C: Effective supervision
  - (3) Threshold condition 2D: Appropriate resources
  - (4) Threshold condition 2E: Suitability
  - (5) Threshold condition 2F: Business model
4. In respect of applications for a consumer credit licence received but not determined by the OFT before 1 April 2014, paragraph 31(8) of the Transitional Order provides that, for the purposes of section 55V of the Act (determination of applications), the appropriate regulator is to be treated as having received the application on 1st April 2014.

### **Relevant provisions of the Authority’s Handbook**

5. In exercising its powers in relation to the granting of a Part 4A permission, the Authority must have regard to guidance published in the Authority Handbook, including the part titled Threshold Conditions (“COND”). The main considerations in relation to the action specified are set out below.
6. By virtue of the Firm’s failure to provide the requested information and, after 27 November 2014, the Firm’s failure to reply at all to the Authority’s correspondence, the Authority cannot ensure that the Firm will satisfy, and will continue to satisfy, the following threshold conditions:
  - iv. Threshold condition 2C: The Firm’s failure to provide the Authority with the requested information calls into question whether the Authority would be able to obtain (on an ongoing basis) sufficient information about the Firm and its activities such that the Authority would be able to effectively supervise the Firm.
  - v. Threshold condition 2D: In failing to engage with the Authority, the Firm has failed to demonstrate that it has appropriate human resources.

- vi. Threshold condition 2E: In failing to respond to the Authority's requests and correspondence in the manner set out above, the Firm has failed to demonstrate that it is ready, willing and organised to comply with the standards and requirements of the regulatory system (including the need to be open and co-operative with the Authority) and has failed to demonstrate that it is fit and proper.
7. On the basis of the facts and matters described above, the Authority has concluded that the Firm will not satisfy, and continue to satisfy, the threshold conditions in relation to the regulated activity for which it would have permission if the Application was granted.