
FINAL NOTICE

Eldonian Group Ltd
Trinity House
Eldon Place
Liverpool
L3 6HE

4 June 2015

ACTION

1. By way of an application dated 19 March 2014, Eldonian Group Ltd applied to the Office of Fair Trading (the "OFT") for a consumer credit licence for the licence categories of Consumer credit, Consumer hire and Credit brokerage. That application remained undetermined at 1 April 2014, at which point statutory responsibility for consumer credit regulation transferred from the OFT to the FCA (the "Authority").
2. In accordance with the Transitional Order, on 1 April 2014 the Application is to be treated automatically as an application for Part 4A permission received by the Authority on 1 April 2014 ("the Application") to carry on regulated activities.
3. The Application is incomplete.
4. For the reasons listed below, the Authority has refused the Application.

SUMMARY OF REASONS

5. By its Warning Notice dated 19 February 2015 ("the Warning Notice") the Authority gave notice that it proposed to refuse the Application and that Eldonian Group Ltd was entitled to make representations to the Authority about that proposed action.

6. As no representations have been received by the Authority from Eldonian Group Ltd 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.
7. By its Decision Notice dated 27 March 2015 ("the Decision Notice"), the Authority gave Eldonian Group Ltd notice that it had decided to take the action described above.
8. Eldonian Group Ltd 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 Eldonian Group Ltd Final Notice of its refusal.
10. The Authority decided to refuse the Application and to give this Final Notice as Eldonian Group Ltd has failed to provide the information required by the Authority and, in the absence of the information sought, the Authority cannot ensure that Eldonian Group Ltd 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 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 "OFT" means the body that before 1 April 2014 was known as The Office of Fair Trading.

The "Transitional Order" means The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No.2) Order 2013.

FACTS AND MATTERS

12. The Application was received by the Authority on 1 April 2014.
13. On the basis of the information contained in the Application, the Authority has concerns over whether Eldonian Group Ltd can be effectively supervised, has appropriate resources, is suitable and has a suitable business model having regard to all the circumstances (Threshold Conditions 2C, 2D, 2E and 2F).
14. In light of these concerns, Eldonian Group Limited was requested to provide the following information in the Authority's email dated 9 October 2014.
 - The relevant completed Top-Up form in respect of the activities applied for.

- Completed Form A in respect of individuals who will hold a controlled function.
- Confirmation of the controller's shareholding and location.
- Completed Controller form in respect of any controller not submitting a Form A.

15. Information was requested from Eldonian Group Limited under section 55U(5) of the Act. Details of all the communications between the Authority and Eldonian Group Limited are set out below:

- (1) On 30 April 2014, the Authority sent an email to Michael Wood, Contracts Manager at Eldonian Group Limited, who had confirmed he was authorised to make the application on behalf of the firm. The Authority's email confirmed the firm's application had been transferred from the OFT to the Authority. The email also provided details of the case officer and requested information to proceed with the application. The Authority gave a deadline of 16 May 2014 to provide the information.
- (2) On 2 June 2014, the Authority sent an email to Mr Wood confirming the Authority had not, to date, received any information requested. The Authority gave a deadline of 9 June 2014 to provide the information.
- (3) On 2 June 2014, the Authority received an email from Mr Wood confirming the information requested was sent to the Authority two weeks ago.
- (4) On 2 June 2014, the Authority sent an email to Mr Wood confirming forms had not been received and that the Authority required Eldonian Group Limited to provide self-certification in relation to its procedures, being financially solvent, its controller and its structure chart.
- (5) On 10 June 2014, the Authority sent an email to Mr Wood confirming the Authority had not received the information and forms requested. The Authority gave a deadline of 12 June 2014 to provide the information.
- (6) On 10 June 2014, the Authority received a call from Mr Wood querying whether the Authority had received information from him. The Authority confirmed the information had not been received and that the Authority would email him shortly requesting the information which was still required.
- (7) On 11 June 2014, the Authority received an email from Mr Wood querying whether the information required from him had been put together.
- (8) On 11 June 2014, the Authority sent an email to Mr Wood requesting the completed forms which had been previously requested but not received and a response to initial fact finding questions in relation to the business. The Authority gave a deadline of 13 June 2014 to provide the information.
- (9) On 12 June 2014, the Authority received an email from Mr Wood providing a response to earlier supplementary questions.

- (10) On 26 June 2014, the Authority received an email from Mr Wood which forwarded an earlier email of 12 June 2014 in which Mr Wood provided a response to earlier supplementary questions.
- (11) On 26 June 2014, the Authority sent an email to Mr Wood acknowledging confirmation provided during an earlier call that Eldonian Group Ltd intended to become a Green Deal Provider and an email which was again forwarded which provided a response to earlier supplementary questions.
- (12) On 26 June 2014, the Authority received an email from Mr Wood providing self-certification and confirming other information would be sent shortly.
- (13) On 9 July 2014, the Authority sent an email to Mr Wood requesting an update on the progress of collating the information requested earlier and querying voting rights.
- (14) On 16 July 2014, the Authority sent an email reminder to Mr Wood requesting a response to the earlier email of 9 July 2014. The Authority gave a deadline of 23 July 2014 to provide the information.
- (15) On 16 July 2014, the Authority received an email from Mr Wood confirming all the information requested would be sent in the next few days.
- (16) On 16 July 2014, the Authority sent an email acknowledgement to Mr Wood.
- (17) On 31 July 2014, the Authority attempted to contact Mr Wood on the office number. The Authority left a message asking for the call to be returned.
- (18) On 11 August 2014, the Authority sent an email to Mr Wood and asked for him to return the call with an explanation of the prolonged delay by 2pm on 12 August 2014.
- (19) On 15 August 2014, the Authority attempted to contact Mr Wood on the office number. The telephone representative confirmed Mr Wood was not in the office and they were unable to confirm when he was expected to return. The Authority left a message with the telephone representative asking for Mr Wood to return the call.
- (20) On 20 August 2014, the Authority attempted to contact Mr Wood on the office number. The telephone representative confirmed Mr Wood was not in the office and they were unable to confirm when he was expected to return. The Authority left a message with the telephone representative asking for Mr Wood to return the call.
- (21) On 28 August 2014, the Authority attempted to contact Mr Wood on the office number. The Authority left a message with the telephone representative asking for Mr Wood to return the call. The telephone representative confirmed Mr Wood was aware how urgent this matter was and that he did intend to respond as soon as possible.
- (22) On 5 September 2014, the Authority contacted Mr Wood on the office number. The Authority spoke to Mr Wood and was informed a director had passed away last week and so he wasn't able to respond. The Authority asked whether Eldonian Group Limited wanted to proceed with its

application. Mr Wood confirmed they wanted to continue with the application and asked the Authority to resend the forms which required completion. The Authority agreed to resend the requests.

- (23) On 9 October 2014, the case officer's manager contacted Mr Wood on the office number. The manager discussed the application and received verbal confirmation from Mr Wood that Eldonian Group Limited was a Green Deal provider, Carl Gwynn was the 100% shareholder, Chris Chandler was the Head of Compliance and that a director at Eldonian Group Limited had recently passed away. The manager confirmed that the Authority would shortly email Eldonian Group Limited requesting additional information and that the Authority required them to provide this by the deadline given.
- (24) On 9 October 2014, the Authority sent an email to Mr Wood and asked for the completion of forms and confirmation of whether limited or full permission activities were being applied for and details of the controller. The Authority gave a deadline of 23 October 2014 to provide the information.
- (25) On 24 October 2014, the Authority attempted to contact Mr Wood on the office number. The telephone representative stated that Mr Wood was not at his desk and the Authority left a message with the telephone representative asking for Mr Wood to return the call before the end of the day.
- (26) On 28 October 2014, the Authority attempted to contact Mr Wood on the office number as he had not returned the earlier call. Chloe McFarland at Eldonian Group Limited confirmed he was in a meeting and she didn't know when he would be finished. The Authority asked to speak to someone else senior at Eldonian Group Limited and was informed that there wasn't anyone else.
- (27) On 29 October 2014, the Authority attempted to contact Mr Wood on the office number. The Authority was informed Mr Wood was not at his desk and that he would be asked to return the call. The Authority was also provided with Mr Wood's mobile number. The Authority attempted to contact Mr Wood on his mobile number and left a message on his voicemail asking him to return the call immediately.
- (28) On 30 October 2014, the first non-responder letter was sent by email to Mr Wood. The Authority gave a deadline of 6 November 2014 to respond. The email also stressed that failure to provide information might result in the case being referred to the Authority's Regulatory Transaction Committee.
- (29) On 10 November 2014, the second non-responder letter was both sent by email and posted to Mr Wood by special delivery. The Authority gave a deadline of 17 November 2014 to respond. The email and letter again stressed that failure to provide information might result in the case being referred to the Authority's Regulatory Transactions Committee. The letter was signed for on 11 November 2014 with the printed name of SEAKWAF.
- (30) On 13 November 2014, the Authority attempted to contact Mr Wood on the office number to chase up earlier requests. The Authority left a message with the telephone representative asking for Mr Wood to return

the call and confirm whether he would be able to respond by the deadline of 17 November 2014.

- (31) On 18 November 2014, the Authority attempted to contact Mr Wood on the office number to find out why he had not responded. The Authority was informed that Mr Wood was not available and was in meetings all day. The Authority confirmed that a letter and email would be sent to him that day.
- (32) On 18 November 2014, a third non-responder letter was sent to Mr Wood by both email and special delivery. The Authority gave a deadline of 2 December 2014 to respond. The email and letter again stressed that failure to provide information might result in the case being referred to the Authority's Regulatory Transactions Committee and explained that withdrawal of the application may want to be considered. The letter was signed for on 19 November 2014 with the printed name of PAA.
- (33) In summary the Authority received replies from Eldonian Group Limited which included basic details concerning its business but this did not include the completion of any supplementary forms which are required to assess the application. The last email communication from Mr Wood was received on 16 July 2014 and the last telephone communication with Mr Wood was on 9 October 2014.

IMPACT ON THRESHOLD CONDITIONS

- 16. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
- 17. Threshold Conditions 2C, 2D and 2E and 2F require that Eldonian Group Limited satisfy the Authority that it can be effectively supervised, have appropriate resources, is suitable and has a suitable business model. The Guidance to Threshold Condition 2C states that the Authority may have regard to whether it is likely the Authority will receive adequate information from the firm to determine whether the firm is complying with the requirements and standards under the regulatory system. The Guidance to Threshold Condition 2E states that the Authority may have regard to whether the firm has been open and co-operative in all its dealings with the Authority and is ready, willing and organised to comply with the regulatory requirements.
- 18. By failing to provide the requested information, despite repeated requests to do so, Eldonian Group Limited has not been open and co-operative with the Authority. The Authority is therefore not satisfied that Eldonian Group Limited will satisfy, and continue to satisfy, Threshold Conditions 2C, 2D and 2E and 2F.
- 19. In addition, the information requested (as set out in paragraphs 9 and 10 above) was relevant to the Authority's assessment of whether Eldonian Group Limited could otherwise satisfy, and continue to satisfy, Threshold Conditions 2C (Effective supervision), 2D (Appropriate resources), 2E (Suitability) and 2F (Business model) by giving the Authority a better understanding of, among other things, the business of Eldonian Group Ltd by providing the information requested.
- 20. In the absence of the requested information, it has not been possible to determine whether the firm can be effectively supervised, has appropriate resources, is suitable and has a suitable business model.

21. On the basis of the facts and matters described above, the Authority has concluded that Eldonian Group Limited will not satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which Eldonian Group Limited would have permission if the application was granted.

IMPORTANT NOTICES

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

Publication

23. 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.

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

Authority contacts

25. For more information concerning this matter generally, contact John Stocker, Senior Manager, Credit Authorisations Division at the Authority (direct line: 020 7066 7224 / email: john.stocker@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.

Threshold condition 2C: Effective supervision

6. Credit Authorisations does not consider that Eldonian Group Limited will satisfy, and continue to satisfy threshold condition 2C (Effective supervision) as it has continually failed to complete supplementary forms required to assess its application for Part 4A permission and in particular whether it can be effectively supervised.
7. COND 2.3.3G states in assessing the threshold conditions set out in paragraphs 2C and 3B of Schedule 6 to the Act, factors which the FCA will take into consideration include, among other things, whether:
 - (1) it is likely that the FCA will receive adequate information from the firm, and those persons with whom the firm has close links, to enable it to determine

whether the firm is complying with the requirements and standards under the regulatory system for which the FCA is responsible and to identify and assess the impact on its statutory objectives; this will include consideration of whether the firm is ready, willing and organised to comply with Principle 11 (Relations with regulators and the rules in SUP on the provision of information to the FCA);

- (2) the structure and geographical spread of the firm, the group to which it belongs and other persons with whom the firm has close links, might hinder the provision of adequate and reliable flows of information to the FCA; factors which may hinder these flows include the fact there may be branches or connected companies in territories which supervise companies to a different standard or territories with laws which restrict the free flow of information, although the FCA will consider the totality of information available from all sources; and
- (3) in respect of a firm not carrying on, or seeking to carry on, a PRA-regulated activity, it is possible to assess with confidence the overall financial position of the group at any particular time; factors which may make this difficult include lack of audited consolidated accounts for a group, if companies in the same group as the firm have different financial years and accounting dates and if they do not share common auditors.

Threshold condition 2D: Adequate Resources

8. Credit Authorisations does not consider that Eldonian Group Limited will satisfy, and continue to satisfy threshold condition 2D (Appropriate resources) as it has continually failed to complete supplementary forms required to assess its application for Part 4A permission and in particular its resources.
9. COND 1.3.2G(2) states that, in relation to threshold conditions 2D to 2F, the Authority will consider whether a firm is ready, willing and organised to comply on a continuing basis with the requirements and standards under the regulatory system which will apply to the firm if it is granted Part 4A permission.
10. COND 2.4.2G(2) states that the FCA will interpret the term 'appropriate' as meaning sufficient in terms of quantity, quality and availability, and 'resources' as including all financial resources (though only in the case of firms not carrying on, or seeking to carry on, a PRA-regulated activity), non-financial resources and means of managing its resources; for example, capital, provisions against liabilities, holdings of or access to cash and other liquid assets, human resources and effective means by which to manage risks.
11. COND 2.4.1A(1) states that the resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on.
12. COND 2.4.1(4) states that the matters which are relevant in determining non-financial resources include (a) the skills and experience of those who manage an applicant's affairs (b) whether non-financial resources are sufficient to enable compliance with (1) requirements imposed or likely to be imposed by the FCA

Threshold condition 2E: Suitability

13. Credit Authorisations does not consider that Eldonian Group Limited will satisfy, and continue to satisfy threshold condition 2E (Suitability) as it has continually

failed to complete supplementary forms required to assess its application for Part 4A permission and in particular its suitability.

14. COND 2.5.2G(2) states that the FCA will also take into consideration anything that could influence a firm's continuing ability to satisfy the threshold conditions set out in paragraphs 2E and 3D of Schedule 6 to the Act. Examples include the firm's position within a UK or international group, information provided by overseas regulators about the firm, and the firm's plans to seek to vary its Part 4A permission to carry on additional regulated activities once it has been granted that permission.
15. COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the FCA threshold conditions, the FCA will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.
16. COND 1.3.3CG provides that, when assessing the FCA threshold conditions, the FCA may have regard to any person appearing to be, or likely to be, in a relevant relationship with the firm, in accordance with section 55R of the Act (Persons connected with an applicant). For example, a firm's controllers, its directors or partners, other persons with close links to the firm (see COND 2.3), and other persons that exert influence on the firm which might pose a risk to the firm's satisfaction of the FCA threshold conditions, would be in a relevant relationship with the firm.
17. COND 2.5.3G(1) states that the emphasis of the threshold conditions set out in paragraphs 2E and 3D of Schedule 6 of the Act is on the suitability of the firm itself. The suitability of each person who performs a controlled function will be assessed by the FCA and/or the PRA, as appropriate, under the approved persons regime (see SUP 10 (Approved persons) and FIT). In certain circumstances, however, the FCA may consider that the firm is not suitable because of doubts over the individual or collective suitability of persons connected with the firm.
18. COND 2.5.4G provides that examples of the kind of general considerations to which the FCA may have regard when assessing whether a firm will satisfy, and continue to satisfy, the threshold conditions set out in paragraphs 2E and 3D of Schedule 6 of the Act 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.

Threshold condition 2F: Business Model

19. Credit Authorisations does not consider that Eldonian Group Limited will satisfy, and continue to satisfy threshold condition 2F (Business model) as it has continually failed to complete supplementary forms required to assess its application for Part 4A permission and in particular its business model.
20. COND 2.7.7G states that, in assessing whether the threshold conditions set out in paragraphs 2F and 3E of Schedule 6 to the Act are satisfied, the FCA may consider all matters that might affect the design and execution of a firm's

business model, taking into account the nature, scale and complexity of a firm's business.

21. COND 2.7.8G states that, in deciding how they will satisfy and continue to satisfy the threshold conditions set out in paragraphs 2F and 3E of Schedule 6 to the Act, firms should consider matters including (but not limited to) the following:

- (1) the assumptions underlying the firm's business model and justification for it;
- (2) the rationale for the business the firm proposes to do or continues to do, its competitive advantage, viability and the longer-term profitability of the business;
- (3) the needs of and risks to consumers;
- (4) the expectations of stakeholders, for example, shareholders and regulators;
- (5) the products and services being offered and product strategy;
- (6) the governance and controls of the firm and of any member of its group (if appropriate);
- (7) the growth strategy and any risks arising from it;
- (8) any diversification strategies; and
- (9) the impact of the external macroeconomic and business environment.

Relevant principles (“PRIN”)

22. PRIN 11 (Relations with regulators) states that a firm must deal with its regulators in an open and cooperative way, and must disclose to the appropriate regulator appropriately anything relating to the firm of which that regulator would reasonably expect notice.