
FINAL NOTICE

To: **Highview Financial Services Limited**

Address: **34 New House
67-68 Hatton Garden
London
EC1N 8JY**

**Interim
Permission
Reference
Number:** **652551**

Dated: **9 November 2015**

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against Highview.
2. The Authority gave Highview the Decision Notice which notified Highview that for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel Highview's Interim Permission.
3. Highview has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to it.
4. Accordingly, the Authority has today cancelled Highview's Interim Permission.

DEFINITIONS

5. The definitions below are used in this Final Notice:

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

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

“the Authority” means the Financial Conduct Authority;

“the Awards” means the Final Decision made by the FOS against Highview: on 30 September 2014, in relation to Miss R (decision reference: DRN9747481); and on 24 November 2014, in relation to Mr A (decision reference: DRN9970939);

“COND” means the Guidance on the Threshold Conditions set out in the Handbook;

“the Decision Notice” means the Decision Notice given to Highview dated 2 October 2015;

“DISP” means the Dispute Resolution: Complaints Manual, which is part of the Handbook;

“EG” means the Enforcement Guide;

“the FOS” means the Financial Ombudsman Service;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“Highview” means Highview Financial Services Limited;

“Highview’s Interim Permission” means the interim permission granted to Highview following the transfer of consumer credit regulation from the OFT to the Authority on 1 April 2014;

“Miss R” means the customer of Highview who made the complaint to the FOS to which decision reference DRN9747481 refers;

“Mr A” means the customer of Highview who made the complaint to the FOS to which decision reference DRN9970939 refers;

“the OFT” means the Office of Fair Trading;

“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;

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

“the Warning Notice” means the Warning Notice given to Highview dated 27 August 2015.

RELEVANT STATUTORY PROVISIONS

6. The statutory and regulatory provisions relevant to this Notice are set out in the Annex.

SUMMARY OF THE REASONS

7. On the basis of the facts and matters and conclusions described in the Warning Notice issued to Highview, and in the Decision Notice, it appears to the Authority that:

- as a result of Highview's persistent failure to comply with the Awards, despite repeated requests by the FOS and the Authority that it comply, Highview has breached DISP 3.7.12R(1), which requires a firm to comply promptly with any award or direction made against it by the FOS;
- by not complying with the Awards, despite repeated requests by the FOS and the Authority that it comply, Highview has breached Principle 11 (Relations with regulators) of the Principles, which requires a firm to deal with its regulator in an open and co-operative way, and to disclose to the Authority anything relating to the firm of which the Authority would reasonably expect notice; and
- considering all the circumstances, Highview is not a fit and proper person because it has failed to satisfy the Authority that it is conducting its affairs in an appropriate manner, having regard in particular to the interests of consumers, and is therefore failing to satisfy the suitability Threshold Condition.

FACTS AND MATTERS RELIED ON

8. On 16 August 2012, the OFT issued a Consumer Credit Licence to Highview.
9. On 1 April 2014, following the transfer of Consumer Credit regulation from the OFT to the Authority, Highview was granted an interim permission to conduct regulated activities relating to consumer credit, having submitted an application to the Authority for an Interim Permission on 30 November 2013.
10. Miss R complained to the FOS that Highview took a payment of £79.95 from her bank account, but, when it failed to find her a loan, Highview failed to refund the amount. In its decision of 30 September 2014, the FOS upheld Miss R's complaint and ordered Highview to refund Miss R £79.95 and pay to her simple interest on that sum from the date the fee was taken to the date of refund. The FOS also awarded Miss R £50 compensation for distress and inconvenience. Miss R accepted the FOS's decision on 4 October 2014.
11. Mr A complained to the FOS that Highview took £79.95 from his bank account in order to find him a loan. Mr A had not authorised the payment, and a loan was not agreed. In its decision of 24 November 2014, the FOS upheld Mr A's complaint and ordered Highview to refund to Mr A £79.95 and pay to him simple interest on that sum from the date the fee was taken to the date of refund. The FOS also ordered Highview to pay to Mr A an additional £75 for the inconvenience caused, with simple interest due if Mr A failed to receive a refund within 28 days of accepting the FOS's decision. Mr A accepted the FOS's decision on 26 November 2014.
12. Highview did not seek a judicial review of the Awards, which therefore remain binding on Highview under section 228(5) of the Act. Highview has failed to comply with the Awards, despite repeated requests by the FOS and the Authority that it do so.

DECISION MAKER

13. The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

IMPORTANT

14. This Final Notice is given to Highview in accordance with section 390(1) of the Act.

Publicity

15. The Authority must publish such information about the matter to which this Final Notice relates as the Authority considers appropriate. The information may be published in such a 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 Highview or prejudicial to the interest of consumers.
16. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority Contact

17. For more information concerning this matter generally, Highview should contact Adam Doe at the Authority (direct line: 020 7066 5522).

John Kirby
Enforcement and Market Oversight Division

ANNEX**RELEVANT STATUTORY PROVISIONS**

1. The Authority's operational objectives established in section 1(B) of the Act include the protection of consumers.
2. Article 56(9) of the 2013 Order provides that an interim permission is to be treated as a Part 4A permission (except in certain circumstances, not relevant to this Notice).
3. The Authority is authorised by section 55J of the act to cancel an authorised person's Part 4A permission, where it appears to the Authority that it is failing to satisfy the Threshold Conditions.
4. Section 228(5) of the Act provides that if the complainant notifies the FOS that he accepts the determination, it is binding on the respondent and the complainant, and is final.
5. The suitability Threshold Condition provides, in relation to a person ("A") carrying on or seeking to carry on regulated activities which do not consist of or include a PRA-regulated activity, 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 [...]
 - (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 sound and prudent manner;"

RELEVANT REGULATORY PROVISIONS

6. In exercising its power to cancel a Part 4A permission, the Authority must have regard to guidance published in the Handbook. The relevant main considerations in relation to the cancellation action specified above are set out below.

Relevant Rule

7. Authority Rule DISP 3.7.12R(1), requires that a respondent (Highview is a respondent under the definition given in the Handbook), complies promptly with any award or direction made by the FOS.

Relevant Principles

8. Principle 6 (Customers' interests) of the Principles requires a firm to pay due regard to the interests of its customers and treat them fairly.
9. Principle 11 (Relations with regulators) of the Principles states that a firm must deal with its regulators in an open and co-operative way.

Guidance concerning the relevant Threshold Condition

10. Guidance on the Threshold Conditions is set out in COND.

COND 2.5 – Suitability: Paragraph 2E of Schedule 6 to the Act

11. 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, the need to ensure that his affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system, and whether the firm's business is being managed in such a way as to ensure that its affairs are being conducted in a sound and prudent manner (COND 2.5.1AUK(1)(c) and (f)).
12. 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)(a)).
13. COND 2.5.6G states that the Authority, when forming its opinion as to whether a firm is conducting its business with integrity and in compliance with proper standards, may have regard to considerations, including 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 requirements and standards under the regulatory system (COND 2.5.6G(1)), and whether the firm has contravened any provisions of the Act or the regulatory system, which include the Threshold Conditions, the Principles and other rules (COND 2.5.6G(4)).

Cancelling a firm's Part 4A permission on the Authority's own initiative

14. The Authority's policy in relation to its enforcement powers is set out in EG.
15. EG 8.1(1) provides that the Authority may use its own initiative power to vary or cancel the permission of an authorised person under section 55J of the Act, where the person is failing or is likely to fail to satisfy the threshold conditions for which the Authority is responsible.
16. EG 8.13(1) states that the Authority will consider cancelling a firm's Part 4A permission using its own initiative powers contained in section 55J of the Act in circumstances where the Authority has very serious concerns about the firm, or the way its business is or has been conducted.
17. EG 8.14 provides examples of the circumstances in which the Authority will consider cancelling a Part 4A permission and EG 8.14(1) specifies that non-compliance with an award made by the FOS against a firm is one such circumstance.