
FINAL NOTICE

Mr Ronald Golding
Money Clinic Debt Management
Limited
Fiscal House
114a High Street
Edgware
Middlesex
HA8 7HF

21 January 2016

ACTION

1. By an application dated 31 January 2015 (“the Application”) Money Clinic Debt Management Limited (“Money Clinic”) 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 debt counselling, debt adjusting and credit broking.
2. The Application is incomplete.
3. For the reasons listed below, the Authority has decided to refuse the Application.

SUMMARY OF REASONS

4. By its Warning Notice dated 27 October 2015 (“the Warning Notice”) the Authority gave notice that it proposed to refuse the Application and that Money Clinic was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from Money Clinic within the time allowed by the Warning Notice, the default procedures in paragraph 2.3.2G 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. By its Decision Notice dated 30 November 2015 ("the Decision Notice"), the Authority gave Money Clinic notice that it had decided to take the action described above.
7. Money Clinic 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.
8. 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 Money Clinic Final Notice of its refusal.
9. In relation to threshold condition 2F (Business model), the Authority is not satisfied that Money Clinic's business model is appropriate to meet the requirements of the relevant rules on the basis that Money Clinic's fee structure is such that:
 - (a) in the majority of cases, Money Clinic effectively charges more than 50% of the customer's monthly repayments to creditors in fees; and
 - (b) Money Clinic's initial fee immediately increases the customer's burden by up to 15% per creditor.
10. In relation to threshold condition 2C (Effective supervision), the Authority is not satisfied that Money Clinic can be effectively supervised on the basis that:
 - (a) Money Clinic has been unable or unwilling to comply with requests for information on a timely basis;
 - (b) Money Clinic does not appear to have in place appropriate locum cover to deal with matters in its director's absence; and
 - (c) the Authority has been contacted by Money Clinic only once, on 2 December 2015, since 6 August 2015, when Mr Golding informed the Authority that Money Clinic had ceased trading as of 1 July 2015. This was the first the Authority knew that Money Clinic had ceased trading some five months beforehand.
11. In relation to threshold condition 2D (Appropriate resources), the Authority is not satisfied that Money Clinic has the appropriate resources required on the basis that:
 - (a) Money Clinic does not appear to have appropriate financial resources because it does not appear to be able to satisfy the FCA's prudential resources requirements; and
 - (b) the Authority has been unable to assess the quality of Money Clinic's debt advice and pre-contractual information, or the adequacy of its record keeping, because it has been unable to obtain these documents from Money Clinic.

DEFINITIONS

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

“the Act” means the Financial Services and Markets Act 2000

“the Application” means the application dated 31 January 2015 submitted by Money Clinic under section 55A of the Act for Part 4A permission to carry on the regulated activities of debt counselling, debt adjusting and credit broking

“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 further information” means information requested on 5 March 2015 by the Authority about Money Clinic’s debt management book of clients

“the OFT” means the body that before 1 April 2014 was known as The Office of Fair Trading

“PRIN” means the Principles for Businesses within the Financial Conduct Authority’s Handbook

FACTS AND MATTERS

13. Money Clinic is a limited company which is wholly owned by Mr Ronald Golding, its sole director (“Mr Golding”).
14. Money Clinic was incorporated on 23 August 2010 and operates as a debt management firm. Money Clinic was licensed by the OFT to carry out debt-adjusting on a commercial basis and debt-counselling on a commercial basis from 8 October 2010 until 31 March 2014.
15. On 1 April 2014, Money Clinic became regulated by the Authority under Interim Permission reference 639184. Money Clinic applied for full authorisation on 31 January 2015 and its application was received by the Authority on 1 February 2015.
16. Money Clinic’s business model entails sourcing indebted consumers who are seeking debt advice on a referral basis. Once a consumer becomes a client of Money Clinic, it proceeds to assess the client’s circumstances by carrying out an assessment of their income and expenditure. Money Clinic then writes to their client’s creditors with an offer of a monthly repayment.
17. Once Money Clinic has received a reply from a creditor it proceeds to write to the client enclosing a copy of the creditor’s reply and a copy of the standing order details for that creditor so that the client can set up the repayment directly. Unlike a traditional debt management plan (as defined by the FCA handbook glossary), Money Clinic does not receive payments from the customer to distribute to creditors.
18. Money Clinic stated that it had 61 active clients at the point it applied for Part 4A authorisation. Money Clinic’s principal source of income is from a combination of an initial setup fee (calculated by reference to the number of creditors and the size of each debt) combined with an annual management fee of 0.35% of the total debt under management.

19. Money Clinic submitted its financial statements as part of its application. The balance sheet for the year ended 31 August 2014 states Money Clinic's net current assets to be £1,671. Money Clinic's accounts show that this figure was £1,419 in 2013 and £1,203 in 2012.
20. On 12 February 2015, the Authority requested that Money Clinic provide examples of income and expenditure checks carried out on its customers. Money Clinic responded on the same day, providing income and expenditure calculations for three of its customers.
21. On 5 March 2015, Money Clinic was asked to provide further information relating to Money Clinic's debt management book of clients ("the further information"). On 27 April 2015, the authority was informed that Mr Golding has been unable to provide the information due to personal reasons. The further information was ultimately provided some 12 weeks later, on 28 May 2015; however the information provided failed to include all of the information sought by the Authority.
22. On 1 June 2015 the Authority called Money Clinic regarding its failure to supply all of the information requested, however Money Clinic has failed to provide the outstanding information or provide an explanation for its failure.
23. The Authority wrote to Money Clinic on 6 August 2015 to set out its concerns regarding Money Clinic's ability to meet the threshold conditions. The letter indicated to Money Clinic that the Authority was minded to make a recommendation to the Regulatory Transactions Committee that the Application be refused. No response was received from Money Clinic and the Authority issued a Warning Notice on 27 October 2015.
24. The Decision Notice was issued on 30 November 2015 and no referral has been made by Money Clinic to the Upper Tribunal to date.
25. On 2 December 2015, Mr Golding contacted the Authority requesting withdrawal of the Application. He stated that he had stopped trading as of 1 July 2015 and had closed his offices. The Authority advised Mr Golding that the deadline to withdraw had elapsed, as the Decision Notice had been issued, and that he had the opportunity to challenge the Decision Notice by making a referral to the Upper Tribunal. No further correspondence has been received from Money Clinic by the Authority and no reference has been made to the Upper Tribunal.

IMPACT ON THE THRESHOLD CONDITIONS

26. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
27. The Authority considers that, having regard to all the circumstances of the application, Money Clinic has failed to demonstrate that it is able to satisfy, and will continue to satisfy, the threshold conditions for authorisation ("COND"), specifically threshold condition 2C (Effective Supervision), 2D (Appropriate Resources), 2E (Suitability) and 2F (Business Model).

Effective Supervision – Threshold Condition 2C

28. The Authority is concerned that Money Clinic's inability to provide the FCA with regulatory information in a timely fashion (for example, in respect of the further information) means that it cannot be effectively supervised by the FCA.

29. Money Clinic did provide an explanation for the extended delay in providing the further information, however the Authority is concerned that the length of time between the Authority's initial request for the further information (on 5 March 2015) and the information being provided (albeit in an incomplete fashion) on 28 May 2015 is nonetheless excessive given the nature of the information it requested.
30. Since 6 August 2015, Money Clinic has contacted the Authority only once (on 2 December 2015), when Mr Golding informed the Authority that Money Clinic had ceased trading as of 1 July 2015. This was the first the Authority knew that Money Clinic had ceased trading some five months beforehand.

Appropriate Resources – Threshold Condition 2D

Prudential Requirements

31. As a debt management firm, Money Clinic is required to meet the prudential resources requirements set out in CONC 10.2.8.
32. Money Clinic's accounts for the period 1 September 2011 to 31 August 2014 would indicate that Money Clinic is not only currently failing to meet the Authority's prudential resource requirements, but that it has recorded similarly inadequate net asset figures over the past three years.
33. The statement of profit and loss for the year ended 31 August 2014 declares a profit of £88. Profits of £161 and £71 were declared in 2013 and 2012 respectively.
34. The Authority considers this shows that Money Clinic's financial situation is unlikely to materially change as it has shown similar financial declarations over the past three years and has no plans to make any substantial growth.
35. The prudential resources requirement for debt management firms under CONC 10.2.8 is the higher of:
- £5,000; or
 - The sum calculated in accordance with CONC 10.2.5 (which is calculated by reference to the value of the firm's relevant debts under management).
36. Money Clinic has not provided any evidence with its application that it has considered this rule as part of its regulatory obligations. Based on the information available to it, the Authority is concerned that Money Clinic has insufficient financial resources to meet its prudential resource requirement as it does not, and is unlikely to be able to, hold the minimum £5,000.
37. CONC 10.1.4G explains that the prudential resource requirement is an important way of "*minimising the risk of harm to customers by ensuring that a firm behaves prudently in monitoring and managing business and financial risks*". As such, the Authority considers that the prudential resource requirements are of particular importance given that they are designed to mitigate risks to consumers who are already in a difficult financial situation.

Non-financial resources

38. The Authority is therefore not satisfied that Money Clinic has appropriate non-financial resources on the basis that it has been unable to demonstrate that it has complied with the relevant regulatory rules applying to debt management firms.

Suitability – Threshold Condition 2E

39. The Authority considers that Money Clinic fails to meet the required standard to comply with threshold condition 2E (Suitability). COND 2.5.1A states that an applicant firm (“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 and the integrity of the financial system.

40. Money Clinic is also expected to comply with PRIN, including Principle 6 (Customers interests) which states that “A firm must pay due regard to the interests of its customers and treat them fairly” and Principle 9 (Customers: relationships of trust) which states that “A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgement”.

41. The Authority considers that Money Clinic does not have sufficient regard for the interests of customers on the basis that its plans appear to be both unaffordable and inappropriate. The Authority’s concerns in relation to affordability and appropriateness of customers’ debt solutions are based upon the following:

Unaffordable plans

42. Money Clinic provided sample Income and Expenditure assessments for three of its current customers. Of the three samples provided, all had negative disposable income figures (although the Authority notes that Money Clinic may have only provided two Income and Expenditure assessments, as two of the samples appeared to be duplicates).

43. When queried about this, Mr Golding confirmed that almost all of Money Clinic’s clients had negative disposable income figures, and that whilst he understood they were not on the best solution for them, he argued that he was providing a service to clients who did not wish to opt for more formal debt solutions (such as bankruptcy) due to the stigma attached.

44. Disposable income is the surplus customers have available to put toward their non-priority debts once all essential costs are deducted from their monthly income. A negative disposable income indicates that the customer is unable to meet the costs of their most essential financial commitments. By placing these customers on debt management plans, Money Clinic risked placing them in a situation where they might sacrifice the payment of essential costs (such as food/heating) in order to meet the amount required by the plan.

45. By accepting fees from customers with negative disposable income, Money Clinic would appear to be in breach of CONC 8.3.7 which states that:

“A firm must refer a customer to an appropriate not-for-profit debt advice body in circumstances where the customer:

- i. Has problems relating to debt requiring immediate attention with which the firm is unable or unwilling to assist the customer; or
 - ii. Does not have enough disposable income to pay the firm's fees".
46. Additionally, it is unclear from Money Clinic's business plan whether it provides its customers with advice on any other debt solutions that may be suitable for them, or whether it has complied with its obligations regarding signposting sources of free debt counselling as required by CONC 8.2.4(1).
47. The Authority is additionally concerned that Money Clinic's initial fee has the effect of immediately increasing the level of its customers' debts (by as much as 15% per creditor). Whilst the Authority's concerns regarding Money Clinic's business model are outlined separately below, the Authority considers that its fee structure (when combined with customers who have negative disposable income) is likely to lead to customer detriment and is therefore not in keeping with the interests of customers.

Inappropriate Plans

48. The further information provided by Money Clinic showed that the average total outstanding debt of its customers was £26,327, and that all of these customers were making only nominal payments to creditors.
49. The length of time for Money Clinic's customers to become debt (based upon the payments agreed with creditors) ranged from 126 years to 1,249 years (to the nearest whole year). The Authority considers such plans to be inappropriate as anything other than a temporary measure (and only then in exceptional cases).
50. Money Clinic has not satisfied the Authority that it is a fit and proper person having regard to all the circumstances including the nature of the regulated activity it seeks to carry on.

Business Model – Threshold Condition 2F

51. The Authority considers that Money Clinic's business model does not satisfy threshold conditions 2F, which states that A's business model must be suitable for a person carrying on the regulated activities that A carries on or seeks to carry on.
52. The matters which are relevant to determining whether A's business model is suitable include:
- i. whether the business model is compatible with A's affairs being conducted, and continuing to be conducted, in a sound and prudent manner;
 - ii. the interests of consumers; and
 - iii. the integrity of the UK financial system.
53. The Authority does not consider that Money Clinic's business model is compatible with its affairs being conducted in a sound and prudent manner, nor is it in the interests of consumers because of the nature of its fee structure, which Money Clinic described as follows:

"We charge an initial fee for each account (i.e creditor) that we deal with, subject to the size of the debt. We also charge an annual management fee of 0.35% of the total debt under management.

<i>Account Size</i>	<i>Fee</i>
<i>£0 - £500</i>	<i>negotiable</i>
<i>£501 - £999</i>	<i>£75.00</i>
<i>£1,000 - £9,999</i>	<i>£150.00</i>
<i>£10,000+</i>	<i>£200.00"</i>

54. When the equivalent monthly cost of Money Clinic's annual management fee was compared against the amount that Money Clinic's customers were repaying to creditors, it revealed that over 76% of its customers were effectively contributing over 50% of their monthly payments to Money Clinic's fees, with some paying up to the equivalent of 81% of their monthly payments in fees.
55. Whilst the Authority acknowledges that since the customer makes payments directly to Money Clinic's creditors (as opposed to making a single payment to it, which is then distributed to the customer's creditors), Money Clinic does not offer debt management plans (as currently defined in the Glossary chapter of the Authority's handbook) and therefore as a matter of strict construction the Authority's rules in CONC 8.7.2 regarding fees do not apply directly, the Authority considers that, for the reasons given above, Money Clinic's fee structure is not in the interests of customers.
56. The Authority considers that Money Clinic's fee structure (when combined with the nominal payments made to creditors) would tend to exacerbate a customer's financial difficulties, especially amongst customers who have negative disposable income figures. The Authority therefore considers that Money Clinic's fee structure is not compliant with threshold condition 2F and Principle 6 (Customers' interests).
57. On the basis of the facts and matters described above, the Authority has concluded that Money Clinic will not satisfy, and continue to satisfy, the threshold conditions in relation to all of the regulated activities for which Money Clinic would have permission if the application was granted.

IMPORTANT NOTICES

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

Publication

59. 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.

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

Authority contacts

61. For more information concerning this matter generally, contact Andrew Hayward-Wills, Manager, Debt Department, Credit Authorisations Division at the Authority (direct line: 020 7066 5374 / email: Andrew.hayward-wills@fca.org.uk).

David Fisher
Chair 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

Relevant provisions of the Authority's Handbook

4. 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

5. COND 2.3.3G provides examples of factors which the FCA will take into consideration including 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).

Threshold condition 2D: Appropriate Resources

6. 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.

7. 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.
8. COND 2.4.4G states that, when assessing whether a firm has appropriate resources, the Authority will have regard to matters including:
 - (d) whether the firm has taken reasonable steps to identify and measure any risks of regulatory concern that it may encounter in conducting its business and has installed appropriate systems and controls and appointed appropriate human resources to measure them prudently at all times.
 - (e) whether the firm has conducted enquires into the financial services sector in which it intends to conduct business, that are sufficient to satisfy itself that:
 - (i) it has access to adequate capital, by reference to the FCA's prudential requirements, to support the business including any losses which may be expected during its start-up period (in relation to a firm other than a firm carrying on, or seeking to carry on, a PRA-regulated activity).

Threshold condition 2E: Suitability

9. 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.
10. 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.
11. 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.
12. COND 2.5.6G provides that examples of the kind of particular considerations to which the FCA may have regard when assessing whether a firm will satisfy, and continue to satisfy, this threshold condition include, but are not limited to, whether:
 - (1) the firm has been open and co-operative in all its dealings with the FCA and any other regulatory body (Principle 11 of the Principles for Business (Relations with regulators)) and is ready, willing and organised to comply with the requirements and standards under the regulatory system (such as the detailed requirements of SYSC and, in relation to a firm not carrying

on, or seeking to carry on, a PRA-regulated activity only, the Prudential Standards part of the FCA Handbook) in addition to other legal, regulatory and professional obligations; the relevant requirements and standards will depend on the circumstances of each case, including the regulated activities which the firm has permission, or is seeking permission, to carry on.

Threshold condition 2F: Business Model

13. 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.
14. 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 Rules - Consumer Credit Sourcebook ('CONC')

15. CONC 8.3.2R(1)(c) states:

A firm must ensure that:

- (1) all advice given and action taken by the firm or its agent or its appointed representative:
 - (a) has regard to the best interests of the customer;
 - (b) is appropriate to the individual circumstances of the customer; and

(c) is based on a sufficiently full assessment of the financial circumstances of the customer.

16. CONC 10.1.4G states:

Prudential standards have an important role in minimising the risk of harm to customers by ensuring that a firm behaves prudently in monitoring and managing business and financial risks.

17. CONC 10.2.5R states:

On its accounting reference date in each year, a firm must calculate:

- (1) the total value of its relevant debts under management outstanding on that date; and
- (2) the sum of:
 - (a) 0.25% of the first £5 million of that value;
 - (b) 0.15% of the next £95 million of that total value; and
 - (c) 0.05% of any remaining total value.

18. CONC 10.2.8R states:

The prudential resources requirement for a firm to which this chapter applies is the higher of:

- (1) £5,000; or
- (2) the sum calculated in accordance with CONC 10.2.5 R (2);
for the period until (subject to CONC 10.2.13 R) its next accounting reference date.