
NOTICE OF DECISION

To: **5 STARS MOTORS LIMITED**

FRN: **955624**

Dated: **7 September 2023**

ACTION

1. For the reasons given below, the Authority has decided to cancel 5SML's Part 4A permission. The cancellation takes effect on 7 September 2023.
2. The effect of the cancellation is that 5SML no longer has permission to carry on any regulated activities.

DEFINITIONS

3. The definitions below are used in this Notice of Decision (and in the Annex):

"5SML" means 5 Stars Motors Limited;

"5SML's Part 4A permission" means the Part 4A permission granted by the Authority to 5SML;

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

“the Authority” means the Financial Conduct Authority;

“EG” means the Enforcement Guide;

“the Further Notice” means the further notice issued by the Authority to 5SML dated 2 August 2023;

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

“the Notice” means the notice issued by the Authority to 5SML dated 22 June 2023;

“Part 4A permission” means permission to conduct regulated activities, granted by the Authority under Part 4A of the Act;

“SUP” means the Supervision Manual, part of the Handbook; and

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

FACTS AND MATTERS

4. 5SML was authorised by the Authority on 10 August 2021 and has a Part 4A permission to conduct the following regulated activities in relation to consumer credit:
 - i. agreeing to carry on a regulated activity;
 - ii. credit broking;
 - iii. debt adjusting; and
 - iv. debt-counselling
5. 5SML submitted regulatory returns to the Authority for the period 1 June 2021 to 31 May 2022 which show that 5SML has not generated any income from the regulated activities it is permitted to carry on. In addition, there are no other matters that suggest 5SML is carrying on regulated activities.
6. On 22 June 2023, the Authority gave 5SML the Notice which stated that:
 - (a) it appears to the Authority that 5SML is carrying on no regulated activity to which its Part 4A permission relates; and
 - (b) the Authority may take action to cancel 5SML’s Part 4A permission unless it responds to the Notice in the manner specified in the directions to the Notice.
7. 5SML failed to respond to the Notice.
8. As a result of the matters specified above, on 2 August 2023, the Authority gave 5SML the Further Notice which stated that:
 - a) the Authority considered that 5SML is carrying on no regulated activity to which its Part 4A permission relates; and
 - b) the Authority proposes to cancel 5SML’s Part 4A permission unless 5SML takes the steps specified in the directions to the Further Notice.
9. 5SML failed to take the steps specified in the Further Notice.

CANCELLATION OF PART 4A PERMISSION

10. From the facts and matters described above, the Authority considers that 5SML is carrying on no regulated activities to which its Part 4A permission relates. The Authority has therefore decided to cancel 5SML's Part 4A permission. The cancellation of 5SML's Part 4A permission takes effect 7 September 2023.
11. The statutory and regulatory provisions relevant to this Notice of Decision are set out in the Annexes.

PROCEDURAL MATTERS

12. This Notice of Decision is given to 5SML under paragraph 3 of Schedule 6A to the Act (variation or cancellation of Part 4A permission on initiative of FCA: additional power).

The following paragraphs are important.

Annulment of the Authority's decision

13. If 5SML is aggrieved by the decision to cancel its Part 4A permission as set out in this Notice of Decision, 5SML may make an application for an annulment of the Authority's decision under paragraph 4 of Schedule 6A to the Act.
14. 5SML must submit a completed application for an annulment of the Authority's decision to the Authority by 6 September 2024 and in the manner specified by the Authority.

The Tribunal

15. 5SML does not have a right to refer the decision to give this Notice of Decision to the Tribunal.

Publicity

16. The Authority intends to publish such information about the matter to which this Notice of Decision relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate.

Authority Contact

17. For more information concerning this matter generally, 5SML should contact Shapla Begum (direct line: 020 7066 1081).

Anna Couzens

Enforcement and Market Oversight Division

ANNEX ON CANCELLATION OF PART 4A PERMISSION ON INITIATIVE OF FCA: ADDITIONAL POWER

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives established in section 1B of the Act include protecting and enhancing the integrity of the UK financial system and securing an appropriate degree of protection for consumers.
2. The Authority is authorised by paragraphs 1(1) and (2) of Schedule 6A to the Act to cancel an Authority-authorised person's Part 4A permission, if it appears to the Authority that the Authority-authorised person is carrying on no regulated activity to which the permission relates.
3. The Authority must exercise its power to cancel an Authority-authorised person's Part 4A permission using its additional own initiative power in accordance with the procedure set out in paragraph 2 of Schedule 6A to the Act.

RELEVANT HANDBOOK PROVISIONS

4. In exercising its power to cancel an Authority-authorised person's Part 4A permission, the Authority must have regard to the regulatory requirements and guidance published in the Handbook and in regulatory guides, such as EG. The main considerations relevant to the action stated in this Notice of Decision are set out below.

Guidance concerning the use of the Authority's additional power to cancel an authorised firm's Part 4A permission on its own initiative

5. Guidance on the use of the Authority's power to cancel an Authority-authorised person's Part 4A permissions on its own initiative under Schedule 6A to the Act is set out in SUP and EG.
6. EG 8.5.2A states that the Authority may cancel the Part 4A permission of a firm that is an Authority-authorised person, under Schedule 6A of the Act, if:
 - (1) it appears to the Authority that the firm is carrying on no regulated activity to which the permission relates; and
 - (2) the firm has failed to respond as directed by the Authority to notices served by the Authority to the firm under paragraph 2 of Schedule 6A.
7. SUP sets out further guidance on the Authority's power under Schedule 6A of the Act. In particular, SUP 7.2.2AG(1) states that the Authority may decide to cancel an Authority-authorised person's Part 4A permission using its powers under Schedule 6A of the Act:
 - (1) if that person appears to the Authority not to be carrying on any regulated activity to which the permission relates; and
 - (2) if that person, when served by the Authority with two notices under paragraph 2 of Schedule 6A of the Act, has not:
 - (a) responded in the manner directed, in those notices or otherwise, by the Authority; nor

(b) taken other steps as may also be directed by the Authority;

the second of which notices will specify the effective date of the proposed cancellation.

8. SUP 7.2.2CG states that, apart from the circumstances described in SUP 7.2.2AG(1), the Authority may also form the view, under Schedule 6A of the Act, that a firm is no longer conducting any regulated activity to which its permission relates in light of, without restriction:

(1) one or more reports, provided to the Authority by the firm, under SUP 16 or otherwise, indicating that it is no longer doing so.

9. SUP 7.2.2DG states that:

(1) the Authority's additional own-initiative variation power under Schedule 6A to the Act (which includes the power to cancel the Part 4A permission of an Authority-authorized firm under Schedule 6A of the Act and references to "additional own-initiative variation power in the remainder of this Notice of Decision should be read as such) has, unlike the Authority's own-initiative variation power under section 55J of the Act, a single basis: that it appears to the Authority that the relevant Authority-authorized person is not carrying on any regulated activity to which its Part 4A permission relates.

(2) if the Authority uses its additional own-initiative variation power, it is therefore more likely to cancel the relevant firm's Part 4A permission, rather than merely varying it by removing or amending the description of one or more such activities or by imposing one or more limitations.

(3) the Authority will, however, consider all relevant facts and circumstances, including, without restriction:

(a) the relevant firm's responses, if any, to the notices given by the Authority under paragraph 2 of Schedule 6A; and

(b) if applicable, the factors described in SUP 6.4.22G, including whether there are any matters relating to the firm requiring investigation,

before deciding whether to use its additional own-initiative variation power and whether to use it to cancel or vary.

10. SUP 7.2.7G(1) states that a firm has no right of referral to the Tribunal in respect of the Authority exercising its additional own-initiative variation power, under Schedule 6A to the Act, on the Authority-authorized firm's Part 4A permission.