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## NOTICE OF DECISION

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To: **Pearce & Sons (Melton) Ltd**  
FRN: **731093**  
Dated: **3 November 2023**

### **ACTION**

1. The Authority has decided to cancel the Firm's Part 4A permission.
2. The Authority has taken this action because, based on the facts and matters set out below, it considers that the Firm is carrying on no regulated activity to which the Firm's Part 4A permission relates.
3. The cancellation takes effect on 3 November 2023. The effect of the cancellation is that the Firm no longer has permission to carry on any regulated activities.

### **DEFINITIONS**

4. The definitions below are used in this Notice of Decision (and in the Annex):
  - "the Act" means the Financial Services and Markets Act 2000;
  - "the Authority" means the Financial Conduct Authority;
  - "EG" means the Enforcement Guide;

“the Firm” means Pearce & Sons (Melton) Ltd;

“the Firm’s Part 4A permission” means the Part 4A permission granted by the Authority to the Firm;

“the Further Notice” means the further notice issued by the Authority to the Firm dated 10 October 2023;

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

“the Notice” means the notice issued by the Authority to the Firm dated 11 September 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**

5. The Firm was authorised by the Authority on 20 January 2016 and has a Part 4A permission to conduct the following regulated activities in relation to consumer credit business:
  - i. agreeing to carry on regulated activity; and
  - ii. credit broking.
6. The Firm submitted regulatory returns to the Authority for the periods 1 June 2021 to 31 May 2023 which show that the Firm has not generated any income from the regulated activities it is permitted to carry on. In addition, there are no other matters that suggest the Firm is carrying on regulated activities.
7. On 11 September 2023, the Authority gave the Firm the Notice which stated that:
  - (a) it appears to the Authority that the Firm is carrying on no regulated activity to which its Part 4A permission relates; and
  - (b) the Authority may take action to cancel the Firm’s Part 4A permission unless it responds to the Notice in the manner specified in the directions to the Notice.
8. The Firm failed to respond to the Notice.
9. As a result of the matters specified above, on 10 October 2023, the Authority gave the Firm the Further Notice which stated that:
  - (a) the Authority considered that the Firm is carrying on no regulated activity to which its Part 4A permission relates; and
  - (b) the Authority proposes to cancel the Firm’s Part 4A permission on 3 November 2023 unless the Firm takes the steps specified in the directions to the Further Notice.
10. The Firm failed to take the steps specified in the Further Notice.

## **CANCELLATION OF PART 4A PERMISSION**

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

## **PROCEDURAL MATTERS**

13. This Notice of Decision is given to the Firm 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**

14. If the Firm is aggrieved by the decision to cancel its Part 4A permission as set out in this Notice of Decision, the Firm may make an application for an annulment of the Authority's decision under paragraph 4 of Schedule 6A to the Act.
15. The Firm must submit a completed application for an annulment of the Authority's decision to the Authority by **2 November 2024** and in the manner specified by the Authority.

#### **The Tribunal**

16. The Firm does not have a right to refer the decision to give this Notice of Decision to the Tribunal.

#### **Publicity**

17. 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**

18. For more information concerning this matter generally, the Firm should contact Funmi Ojo (direct line: 020 7066 1354).

**Jeremy Parkinson**  
**Enforcement and Market Oversight**

**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.

## **ANNULMENT OF DECISION TO CANCEL OR VARY A PART 4A PERMISSION UNDER SCHEDULE 6A**

1. If any person currently or previously holding a permission given by the Authority under Part 4A of the Financial Services and Markets Act 2000 ("the Act") is aggrieved by the Authority's decision to cancel or vary their Part 4A permission under paragraph 1 of Schedule 6A to the Act, they may apply to the Authority under paragraph 4 of Schedule 6A to the Act for an annulment of that decision.
2. As required by paragraph 4 of Schedule 6A to the Act, a completed application for annulment must be made before the end of the period of 12 months beginning with the day on which the cancellation or variation took effect. An application for annulment can, however, be made before the relevant cancellation or variation takes effect.
3. Paragraph 4 of Schedule 6A to the Act requires the Authority to determine an application for annulment before the end of the period of 6 months, beginning with the date on which the Authority received the completed application.
4. Paragraph 4 of Schedule 6A to the Act permits an application for annulment to be withdrawn by the applicant firm, by giving the Authority written notice, at any time before the Authority determines the application.
5. A completed application, signed where indicated, must be submitted via Connect (a hard copy application form can be provided upon request).
6. Paragraph 5 of Schedule 6A to the Act permits the Authority to annul a decision to cancel or vary an Authority-authorized firm's Part 4A permission with conditions but specifies that the Authority can only annul, with or without conditions, if it is satisfied that it is just and reasonable to do so in all the circumstances.
7. Paragraph 5 of Schedule 6A to the Act provides that the Authority's power to annul with conditions includes the power:
  - (a) to remove or describe differently a regulated activity specified in the permission, and
  - (b) to withdraw or vary an approval given under section 59 of the Act that has effect in relation to the carrying on of a regulated activity specified in the permission,provided that the activity in question was one to which the permission related immediately before the decision being annulled was taken.
8. The effect of an annulment, as set out in paragraph 6 of Schedule 6A to the Act, is that the cancellation or variation in question is treated as not having taken place. Firms considering whether to apply for annulment should note that, as a result, all of the statutory and other obligations to which the firm, their staff and others would have otherwise been subject, had there been no cancellation or variation, will, subject to the below, retrospectively apply to them on any annulment.
9. Under paragraph 6 of Schedule 6A to the Act, where, as a result of an annulment, a person becomes subject to an obligation imposed by or under primary or secondary UK or devolved or retained direct EU legislation, and the Authority has functions in relation to that obligation, the Authority is permitted to treat that person as not having become subject to that obligation. The Authority calls this a forbearance power.

10. The Authority's approach to retrospectively forbearing in relation to such an obligation for the benefit of a firm and its employees will be informed by whether the firm continued, between the relevant cancellation or variation and the annulment, to conduct any regulated or other activity for which it required its cancelled or unvaried permission.
11. Firms should note, however, that they should be prepared to justify such activity when applying for annulment and that such activity may well lead the Authority to decide not to annul. They should consider our Perimeter Guidance manual so as to avoid, following cancellations or variations of their Part 4A permissions, breaching the Act and thereby potentially committing criminal offences by carrying on regulated or other activity for which they need their cancelled or unvaried permissions. While such a breach will be cured by annulment, such activity may, as already noted, lead the Authority not to annul.
12. In respect of a cancellation, where an applicant firm has not conducted any regulated or other activity for which it would have needed its cancelled permission, since that cancellation took effect, the Authority considers that it may usually be appropriate to forbear in relation to all the obligations, described above, that would otherwise apply to the firm and its staff retrospectively on annulment.
13. In respect of a cancellation, where an applicant firm has, since the cancellation, conducted regulated or other activity for which it needed its cancelled Part 4A permission, the Authority considers that, if it annuls despite that activity, it will not usually be appropriate to forbear in relation to any obligations retrospectively applicable, during the period of that activity, as a result of the annulment.
14. Accordingly, during the period of any such activity, a firm considering making an application for annulment should continue to comply, to the extent it is able to do so, with the statutory and other requirements, including those imposed by the Authority's Handbook, to which it would be subject but for the cancellation.
15. In respect of a variation, the Authority intends to adopt a similar approach, and forbear in relation to the obligations, if any, which were lifted by the variation and which the firm becomes subject to retrospectively on annulment, subject to the firm not having undertaken regulated or other activity for which it would have needed its unvaried permission, since the variation took effect.
16. To the extent that such a firm is unable to precisely comply with such requirements, if enforced by the Authority or another UK regulator, it should consider how it can do so through other means. As stated in SUP 7.4, we may take the extent of such compliance into account when determining such a firm's application for annulment.
17. The annulment application form enables an applicant to specify particular obligations that in relation to which it would like the Authority to forbear, whether retrospectively or prospectively (i.e., from the date an annulment takes effect), whether in its favour or in favour of any other person.
18. Where forbearance is granted, whether retrospectively or prospectively, it cannot operate in respect of obligations that applied to the firm during the relevant period in any event, i.e. for some reason other than the retrospective nature of annulment.
19. The Authority intends to use its forbearance power when it considers that the effect of an annulment creates unfairness.

20. The Authority is required by Schedule 6A to the Act to notify those in whose favour it uses this power.
21. In determining whether to exercise its power to grant an annulment with or without conditions or to refuse to grant an annulment, 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 Authority's decision to grant an annulment (with or without conditions) are set out in SUP 7.4.

### **FEES/DISP/COMP**

22. The Fees Manual ("FEES"), Dispute Resolution: Complaints sourcebook ("DISP") and Compensation sourcebook ("COMP"), chapters of the Handbook, contain rules making provision for and guidance as to the effect of annulment.
23. In summary, the effect of annulment is that any fees and levies that arose while the authorised person's Part 4A permission was cancelled become payable (unless the authorised person has previously advised the Authority that it is exempt). Where the deadline for obligations relating to the provision of information or payment of the various fees and levies has passed before annulment, the relevant rules and guidance within FEES delay those deadlines.
24. The fees and levies the Authority collects and the relevant rules and guidance within FEES are: Authority fees (FEES 4); Financial Ombudsman Service (FEES 5); Financial Services and Compensation Scheme (FEES 6); Single Finance Guidance Body (SFGB – FEES 7A); Devolved Debt Advice Levy (FEES 7B); Temporary Permissions Regime and Financial Service Contracts Regime – SFGB Levy (FEES 7C); Temporary Permissions – Devolved Authorities Levy (FEES 7D); and Illegal Money Laundering Levy (FEES 13 and 13A).

#### *DISP*

25. Where there is a complaint about an authorised person's activities during the period when its Part 4A permission was cancelled, the effect of an annulment is that the Ombudsman Service may be able to consider the complaint (further to DISP 2.3.6G).
26. Where a deadline for a complaints report that is to be submitted to the Authority in accordance with DISP 1.10.5R occurs during the period of cancellation, the effect of an annulment is that the authorised person must submit such report to the Authority within 30 business days of the date on which the annulment takes effect (further to DISP 1.10.5AR).

#### *COMP*

27. The effect of an annulment is that an authorised person will be treated as a participant firm for the Financial Services and Compensation Scheme ("FSCS") purposes for claims that may arise in the period between cancellation and annulment (further to COMP 6.2.5G).

### **Right to refer matter to the Tribunal**

28. Under paragraph 7 of Schedule 6A to the Act, if an applicant submits a completed application to annul by the date and in the form specified and the Authority determines that application in accordance with paragraph 5(2) of Schedule 6A to the Act, by either deciding to grant the annulment (with or without such conditions as the Authority considers appropriate) or by



refusing to grant the annulment, the applicant (and the Authority) will have the right to refer the matter to the Tribunal.

29. In determining a reference to the Tribunal, the Tribunal may give such directions, and may make such provision, as it considers reasonable for placing the person and other persons in the same position (as nearly as may be) as if the permission had not been cancelled.