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## FINAL NOTICE

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Donna Worsfold  
DMW Associates  
3<sup>rd</sup> Floor  
The Pinnacle  
Station Way, Crawley  
West Sussex  
RH10 1JH

Dear Donna Worsfold

### **ACTION**

1. By an application number 206736726 dated 19 June 2021 ("the Application"), Donna Worsfold ("DMW" or "the Applicant") applied under section 55A of the Act for Part 4A permission to carry on the regulated activities of:
  - a. agreeing to carry on a regulated activity;
  - b. Credit Broking

With a Requirement: The firm is not permitted to canvass regulated borrower-lender-supplier agreements or regulated consumer hire agreements off trade premises.

2. The Application is incomplete.
3. For the reasons listed below, the Authority has refused the Application.

## **SUMMARY OF REASONS**

4. By its Warning Notice dated 6 Aug 2021 the Authority gave notice that it proposed to refuse the application and that DMW was entitled to make representations to the Authority about the proposed action.
5. As no representations have been received by the Authority from DMW 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.
6. By its Decision Notice dated 10 Sept 2021, the Authority gave DMW notice that it had decided to take the action described above.
7. DMW had 28 days from the date the Decision Notice was given to refer the matter to the Upper 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 DMW Final Notice of its refusal.
9. DMW has failed to respond to requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined. The last request included a statement to the effect that DMW must contact the Authority within 10 business days, or the Authority would recommend to the Authority's Regulatory Transactions Committee ("RTC") that DMW receive a Warning Notice. No response was received.
10. The Authority has therefore determined the Application based upon the information received to date, in circumstances where its requests for information have not been met. Having reviewed that information, the Authority cannot ensure that DMW satisfies, and will continue to satisfy, the threshold conditions set out in Schedule 6 of the Act.
11. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and cooperative way. The failure to provide the requested information raises concerns that DMW would fail to do so if the Application were to be granted.

The failure to provide the information raised concerns as to whether DMW:

- a. can be effectively supervised by the Authority as required by Threshold Condition 2C;

- b. has appropriate human resources, given DMW's failure to provide the Authority with the requested information as required by Threshold Condition 2D; and
- c. will conduct its business with integrity and in compliance with proper standards as required by Threshold Condition 2E.

## **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 referred to in paragraph 1 above;

"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 Executive Decision Maker" means the member of the Authority's staff acting under executive procedures as described in Chapter 4 of the Decision Procedure and Penalties Manual in the Authority's Handbook.

"SUP" means the Supervision section of the Authority's handbook;

"SYSC" means the Senior Management Arrangements, Systems and Controls section of the Authority's handbook; and

"the Tribunal" means the Upper Tribunal (Tax & Chancery Chamber)

"the Warning Notice" means the warning notice dated 6 Aug 2021 given to the applicant by the Authority.

## **FACTS AND MATTERS**

13. The Application was received by the Authority on 19 June 2021.

14. Further information was requested from DMW under section 55U(5) of the Act.

15. On 7 Dec 2020 the Authority requested the following information in support of the Application with a deadline of 21 Dec 2020:

- a. What regulated credit products it intended to broker;
- b. List of its panel of lenders;
- c. Confirmation as to whether DMW charges a fee for its credit broking service and details of all its fees payable for the service;
- d. How DMW makes its customers aware of the associated fees;
- e. Details of its refund procedure and how it is compliant with CONC 4
- f. Whether DMW receives a commission from the lender/broker and the stage when this is paid

- g. How DMW ensures there is no commission bias and that the prominence of commission does not affect its decision to recommend a certain product over another;
- h. How customers are made aware of the limitations of the service provided by DMW and the existence of commission with reference to CONC 4.5;
- i. Whether DMW's website adequately reflect the services provided and meet the relevant broking and fin prom rules;
- j. How DMW ensures a product it recommends is not unsuitable for the customer and what it takes into account when assessing whether a loan is suitable for a sole trader and small partnerships?
- k. Provide the FCA its vulnerable persons policy and complaints procedure;
- l. Provide the FCA its credit information notice;
- m. Confirmation of whether DMW conducted any customer satisfaction followups to feed into TCF improvements;
- n. Whether DMW intend to approve any financial promotions on behalf of unregulated third parties?
- o. Provide its compliance monitoring programme
- p. Confirmation that DMW application was to be a sole trader application in the firm name of Donna Worsfold and not DMW Associates. Confirm why Treatwell Services Limited was using the same trading style and how it intended to mitigate the names clash;
- q. Confirmation that DMW understood the Mortgage credit directive and querying whether it had not considered whether it may need mortgage permissions.

- 16. DMW failed to provide the outstanding information by the deadline of 21 Dec 2020.
- 17. On 21 Dec 2020 the Authority sent a reminder with a new deadline of 8 Jan 2021 and no response was received.
- 18. On 8 Jan 2021 a reminder was sent with a new deadline of 22 Jan 2021 and no response was received. This was also copied to Ash Teiko the firm's compliance adviser.
- 19. On 26 Jan 2021 a reminder was sent with a new deadline of 9 Feb 2021 and no response was received.
- 20. On 3 March 2021 a further reminder was sent with a new deadline of 17 March 2021 and no response was received.
- 21. On 21 April 2021 the Authority sent a letter to DMW by way of email and special delivery, noting the lack of a response to its requests for the information and informing it that a failure to provide the information would result in the Application

being determined based upon the information received to date and that this might result in the Authority issuing DMW with a Warning Notice proposing to refuse the Application. DMW failed to provide the outstanding information by the stated deadline of 5 May 2021 and no response was received.

22. On 6 May 2021, the Authority sent a letter to DMW by way of email and special delivery, noting the lack of a response to its requests for the information and informing it that a failure to provide the information would result in the Application being determined based upon the information received to date and that this might result in the Authority issuing DMW with a Warning Notice proposing to refuse the Application. DMW failed to provide the outstanding information by the stated deadline of deadline for response.
23. On 22 June 2021 the Authority called Mr Ash Teiko the compliance adviser to explain that no response had been received from Donna Worsfold. The Authority requested he contact her to prompt a response. Mr Teiko emailed the Authority on 24 June 2021 and confirmed he had contacted Donna Worsfold asking her to respond to the FCA or to notify the FCA of her intention as to whether she wanted to close the application. Donna Worsfold has not contacted the FCA.
24. The Authority attempted to call Donna Worsfold on 8 Jan 2021, 22 Feb 2021, 17 Mar 2021, 30 Mar 2021, 21 April 2021 and 6 May 2021. No response was received.

#### **IMPACT ON THRESHOLD CONDITIONS**

25. DMW has failed to respond to 7 separate requests for the provision of information considered by the Authority to be necessary to allow the Application to be determined. The final request gave DMW 10 business days to respond and included a statement to the effect that DMW must contact the Authority, or the Authority would issue DMW with a Warning Notice.
26. The Authority must therefore determine the Application based upon the information received to date, in circumstances where its requests for information have not been met. Having reviewed that information, the Authority cannot ensure that DMW satisfies, and will continue to satisfy, the threshold conditions.
27. Authorised firms (and those seeking authorisation) are expected to engage with the Authority in an open and cooperative way. The failure to provide the requested information raises concerns that DMW would fail to do so if the Application were to be granted.
28. The failure to provide the information means that the Authority cannot ensure that DMW:
  - a. can be effectively supervised by the Authority as required by threshold condition 2C;
  - b. has appropriate human resources, given DMW's failure to provide the Authority with the requested information as required by threshold condition 2D; and
  - c. will conduct its business with integrity and in compliance with proper standards as required by threshold condition 2E.

The regulatory provisions relevant to this Decision Notice are referred to in Annex A.

## **IMPORTANT NOTICES**

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

### **Publication**

30. 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.

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

### **Authority contacts**

32. For more information concerning this matter generally, contact Alex MacDermott, Technical Specialist, Credit and Lending at the Authority (direct line: 020 7066 0264 / email: [alexander.macdermott@fca.org.uk](mailto:alexander.macdermott@fca.org.uk)).

**Alex MacDermott**  
**Executive Decision Maker on behalf of the Authority**

## **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’s Handbook, including the part entitled Threshold Conditions (“COND”). The main considerations in relation to the action specified are set out below.
5. 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.
6. COND 1.3.3AG provides that, in determining the weight to be given to any relevant matter, the Authority will consider its significance in relation to the regulated activities for which the firm has, or will have, permission in the context of its ability to supervise the firm adequately, having regard to the Authority’s statutory objectives. In this context, a series of matters may be significant when taken together, even though each of them in isolation might not give serious cause for concern.
7. COND 1.3.3BG provides that, in determining whether the firm will satisfy, and continue to satisfy, the Authority threshold conditions, the Authority will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.
8. COND 2.4.2G(2) states that the Authority 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.

#### Threshold Condition 2C: Effective Supervision

9. COND 2.3.3G states that, in assessing the threshold condition set out in paragraph 2C of Schedule 6 to the Act, factors which the Authority will take into consideration include, among other things, whether it is likely that the Authority will receive adequate information from the firm to determine whether it is complying with the requirements and standards under the regulatory system for which the Authority 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 Authority.

#### Threshold condition 2D: Appropriate Resources

10. COND 2.4.2G(2) states that the Authority 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 2.4.2G(2A) provides that, 'non-financial resources' of the firm include human resources it has available.
12. COND 2.4.2G (3) states that high level systems and control requirements are in SYSC. The Authority will consider whether the firm is ready, willing and organised to comply with these and other applicable systems and controls requirements when assessing if it has appropriate non-financial resources for the purpose of the threshold conditions set out in threshold condition 2D.

#### Threshold condition 2E: Suitability

13. COND 2.5.2G(2) states that the Authority 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.
14. COND 2.5.4G(2)(c)G states that examples of the kind of general considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, threshold condition 2E include, but are not limited to, whether the firm can demonstrate that it conducts, or will conduct, its business with integrity and in compliance with proper standards.
15. COND 2.5.6G provides that examples of the kind of particular considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, this threshold condition include, but are not limited to, whether the firm has been open and co-operative in all its dealings with the



Authority and any other regulatory body (see Principle 11 (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 Authority's 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.

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