
FINAL NOTICE

Principal Claims Management Services Limited
339 Dudley Road
Birmingham
West Midlands
B18 4HB

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ACTION

1. By an application dated 29 July 2019 ("the Application"), Principal Claims Management Services Limited ("PCMS") applied under section 55A of the Act for Part 4A permission to carry on the regulated activity of:
 - a. agreeing to carry on a regulated activity;
 - b. seeking out, referrals and identification of claims or potential claims (personal injury claim; financial services or financial product claim; housing disrepair claim; claim for a specified benefit; criminal injury claim; employment related claim)
 - c. advice, investigation or representation in relation to a personal injury claim; and
 - d. advice, investigation or representation in relation to a criminal injury claim.
2. The Application is incomplete.
3. For the reasons set out below, The Authority has refused the Application.

SUMMARY OF REASONS

4. By its Warning Notice dated 5 May 2021, the Authority gave notice that it proposed to refuse the Application and that PCMS was entitled to make representations to the Authority about that proposed action.
5. As no representations have been received by the Authority from PCMS 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 25 June 2021 ("the Decision Notice"), the Authority gave PCMS notice that it had decided to take the action described above.
7. PCMS had 28 days from the date the Decision Notice was given to refer the matter to the Tribunal. No referral was made to the 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 PCMS a Final Notice of its refusal.
9. PCMS has failed to respond to six separate requests for the provision of information considered by the Authority to be necessary to enable it to determine the Application. The last three requests were made over a 4-week period, and the last request included a statement that PCMS must contact the Authority, or the Authority would recommend to the Authority's Regulatory Transactions Committee ("RTC") that it give PCMS a Warning Notice proposing to refuse the Application.
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 PCMS satisfies, and will continue to satisfy, the threshold conditions for which the authority is responsible in relation to all the regulated activities for which PCMS would have permission.
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 has raised concerns that PCMS would fail to do so if the Application were to be granted.
12. In particular, the Authority cannot ensure that PCMS:
 - a. can be effectively supervised by the Authority, as required by threshold condition 2C;
 - b. has appropriate human resources, given PCMS'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

13. 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 Financial Conduct Authority;

“the RDC” means the Authority’s Regulatory Decisions Committee; “the RTC” means the Authority’s Regulatory Transactions Committee;

“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;

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

“the Warning Notice” means the warning notice dated 5 May 2021 given to PCMS by the Authority.

FACTS AND MATTERS

14. The Application was received by the Authority on 29 July 2019.

15. The Authority requested further information from PCMS under section 55U(5) of the Act.

16. Details of all relevant communications between the Authority and PCMS are set out below.

17. Between 31 March 2020 and 22 May 2020, the Authority sent PCMS three emails and one letter in an attempt to elicit information from PCMS that would assist the Authority in determining the Application.

18. On 31 March 2020, the Authority sent an email and a letter to PCMS, using the contact details provided in the Application, to request that PCMS provide the following information:

- a. Explain discrepancy between estimated income from regulated activities in the Application and that included in the financial projections;
- b. Provide more detail on how the firm earns its fees, where they are from and examples of fees earned in the previous 12 months;
- c. Clarity on permissions applied for versus permissions listed in the business plan;
- d. Further information based on answers in The Individual Form together with relevant supporting documents;
- e. Signature on the Individual Form; and
- f. SM&CR Form

19. PCMS failed to provide the information outlined above by the stated deadline of 15 April 2020.

20. Between 24 April 2020 and 22 May 2020, the Authority wrote to PCMS by email on two occasions, referring to its previous requests for information.
21. On 9 June 2020, the Authority contacted PCMS by way of email noting that if it is unable to provide a response to the Authority's requests for information, it may wish to withdraw the Application and re-apply at a later date when it is ready, willing and organised.
22. On 15 June 2020, a third party responded on behalf of PCMS communicating an intention to withdraw the Application.
23. On 23 June 2020, the Authority explained to PCMS that written confirmation (by email or letter) of the decision to withdraw the application was required from the Applicant's approved person, not a third party.
24. On 11 August 2020 and 20 August 2020, the Authority contacted PCMS by way of email, referring to the Authority's the request for information originally dated 31 March 2020. PCMS failed to respond to either request.
25. On 15 January 2021, the Authority sent a letter to PCMS by way of email and recorded delivery, noting the lack of response to its requests for 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 a recommendation to the RTC that it issue PCMS with a warning notice proposing to refuse the Application. PCMS failed to provide the a response by the stated deadline of 17 March 2021.
26. To date, the Authority has not received any responses to its requests for information set out above, nor has it received any written confirmation from PCMS withdrawing the Application.

IMPACT ON THRESHOLD CONDITIONS

27. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
28. PCMS has failed to respond to numerous separate requests for the provision of information considered, by the Authority, to be necessary to enable the Authority to determine the Application. The final request gave PCMS 10 business days to respond as detailed above and included a statement to the effect that PCMS must contact the Authority, or the Authority would recommend to the RTC that PCMS receives a warning notice.
29. 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 PCMS satisfies, and will continue to satisfy, the threshold conditions for which the Authority is responsible.
30. The failure to provide the information means that the Authority cannot ensure that PCMS:
 - a. can be effectively supervised by the Authority as required by threshold condition 2C;
 - b. has appropriate human resources, given PCMS'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.

IMPORTANT NOTICES

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

Publication

32. 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.

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

Authority contacts

34. For more information concerning this matter generally, contact Greg Williams, Manager, CMC Transition Team at the Authority (direct line: 020 7066 1475 / email: Greg.williams@fca.org.uk).

on behalf 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.
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’s threshold conditions, the Authority will have regard to all relevant matters, whether arising in the United Kingdom or elsewhere.

Threshold Condition 2C: Effective Supervision

8. 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

9. 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.
10. COND 2.4.2G(2A) provides that 'non-financial resources' of the firm include human resources it has available.
11. 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

12. 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.
13. COND 2.5.4G(2)(c) 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.
14. 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.