
FINAL NOTICE

To: **South West Durham Credit Union Limited**

Address: **75 Church Street
Sildon
DL4 1DT**

FRN: **214348**

Dated: **22 August 2017**

ACTION

1. For the reasons set out in this Final Notice, the Authority hereby takes the following action against SWDCUL.
2. The Authority issued to SWDCUL the Decision Notice which notified SWDCUL that, for the reasons given below and pursuant to section 55J of the Act, the Authority had decided to cancel SWDCUL's Part 4A permission.
3. SWDCUL has not referred the matter to the Tribunal within 28 days of the date on which the Decision Notice was given to SWDCUL.
4. Accordingly, the Authority has today cancelled SWDCUL's Part 4A permission.

DEFINITIONS

5. The definitions below are used in this Final Notice (and in the Annex):

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

“the Authority” means the Financial Conduct Authority;

“the Decision Notice” means the Decision Notice given by the Authority to SWDCUL dated 17 May 2017;

“EG” means the Enforcement Guide;

“the FSCS” means the Financial Services Compensation Scheme;

“FSN” means First Supervisory Notice;

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

“the PRA” means the Prudential Regulation Authority;

“SWDCUL” means South West Durham Credit Union Limited;

“SWDCUL’s Part 4A permission” means the permission granted by the Authority to SWDCUL pursuant to Part 4A of the Act;

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

“the Warning Notice” means the Warning Notice given by the Authority to SWDCUL dated 26 April 2017.

RELEVANT STATUTORY PROVISIONS

6. The statutory and regulatory provisions relevant to this Final Notice are set out in the Annex.

FACTS AND MATTERS RELIED ON

7. SWDCUL was authorised by the Authority on 3 July 2002 and also by the PRA on 1 April 2013.
8. A FSN was issued to SWDCUL on 24 November 2008 which varied SWDCUL’s permission by removing SWDCUL’s only regulated activity such that SWDCUL was unable to conduct any regulated activities. On 11 May 2009, the FSCS declared SWDCUL “in default” and its depositors were compensated by the FSCS for their savings. Since 24 November 2008 to date, SWDCUL has continued to be authorised and to hold a Part 4A permission (albeit the permission is empty).

FAILINGS

9. The Authority has concluded, on the basis of the facts and matters described above, that SWDCUL’s Part 4A permission should be cancelled for the following reasons:
 - a. SWDCUL’s Part 4A permission has been emptied of its only regulated activity by own-initiative variation action, taken in 2008 under section 45(3) of the Act (the Authority’s variation power is now in section 55J of the Act), such that SWDCUL has no regulated activities for which it has permission; and

- b. the Authority is satisfied that it is no longer necessary to keep SWDCUL's Part 4A permission in force.

DECISION MAKER

10. The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

IMPORTANT

11. This Final Notice is given to SWDCUL in accordance with section 390(1) of the Act.

Publicity

12. The Authority must publish such information about the matter to which this Final 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 SWDCUL or prejudicial to the interest of consumers.
13. The Authority intends to publish this Final Notice and such information about the matter to which this Final Notice relates as it considers appropriate.

Authority Contact

14. For more information concerning this matter generally, please contact Dilip Vekariya at the Authority (direct line: 020 7066 5520).

John Kirby
Enforcement and Market Oversight Division

ANNEX

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. Section 55J(8) of the Act states that:

"If, as a result of a variation of a Part 4A permission under this section, there are no longer any regulated activities for which the authorised person concerned has permission, the regulator responsible for the variation, must, once it is satisfied that it is no longer necessary to keep the permission in force, cancel it."

RELEVANT HANDBOOK PROVISIONS

3. In exercising its power to cancel a firm'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 relevant main considerations in relation to the action specified above are set out below.
4. The Authority's policy in relation to its enforcement powers is set out in EG, certain provisions of which are summarised below.

Cancelling a firm's Part 4A permission on the Authority's own initiative

5. EG 8.5.1(2) states that the Authority will consider cancelling a firm's Part 4A permission using its own initiative power contained in section 55J of the Act in circumstances where the firm's regulated activities have come to an end and it has not applied for cancellation of its Part 4A permission.
6. EG 8.5.3 states that depending on the circumstances, the Authority may need to consider whether it should first use its own-initiative powers to impose requirements on a firm or to vary a firm's Part 4A permission before going on to cancel it. Amongst other things, the Authority may use this power where it considers it needs to take immediate action against a firm because of the urgency and seriousness of the situation.
7. EG 8.5.4 states that where the situation appears so urgent and serious that the firm should immediately cease to carry on all regulated activities, the Authority may first vary the firm's Part 4A permission so that there is no longer any regulated activity for which the firm has a Part 4A permission. If the Authority does this, it will then have a duty to cancel the firm's Part 4A permission – once it is satisfied that it is no longer necessary to keep the Part 4A permission in force.