
FIRST SUPERVISORY NOTICE

To: **Hydrogard Legal Services Limited**

Reference Number: **829910**

Address: **6 Vulcan Way, Sandhurst, Berkshire, GU47 9DB**

Date: **18 November 2024**

1 ACTION

- 1.1 For the reasons given in this First Supervisory Notice, and pursuant to sections 55L(2) and 55L(3)(a) of the Financial Services and Markets Act 2000 ("the Act"), the Financial Conduct Authority ("the Authority") has decided to impose requirements (the "Requirements") on Hydrogard Legal Services Limited ("the Firm") with immediate effect.

Business restriction

1. The Firm must immediately cease carrying on all regulated activities for which it has a Part 4A permission, other than where it has the express written consent of the Authority.
2. Pursuant to CMC0B 6.3.1R, the Firm must ensure that it complies with its obligations in relation to ceasing its regulated activities under CMC0B 6.3.3R to 6.3.5R.
3. The Firm must not assign any customer claim to any third party, without the prior written consent of the Authority.

Retention and notification requirements

4. The Firm must secure and preserve all records and information (physical or electronic) in relation to all activities carried on by it, including but not limited

to regulated activities, in their original form or in a copy to be identical to the source material, and must retain these in a form and at a location within the UK, to be notified to the Authority in writing by no later than on 25 November 2024, such that they (or, so as not to hinder the Firm's performance of its business activities, true copies of them) can be provided to the Authority, or to a person named by the Authority, promptly on its request;

5. By close of business on 2 December 2024, the Firm must publish in a prominent place on its website (<https://hydrogardlegalservices.co.uk/>) in a form to be agreed in advance with the Authority, a notice setting out the terms and effects of these Requirements;
 6. The Firm must by no later than close of business on 2 December 2024, notify all its current customers in writing of the imposition of the terms and effects of these Requirements. This must be in a form to be agreed in advance with the Authority;
 7. The Firm must by no later than close of business on 2 December 2024, notify all respondents (and, in respect of any claims with which it is or becomes engaged, the FOS), in writing of the imposition of the terms and effects of these Requirements;
 8. Once the notifications referred to in sub-paragraph (6) have been made, on 3 December 2024 the Firm must provide to the Authority:
 - a. copies of the template notifications sent to all recipients referred to in sub-paragraph (6);
 - b. a list of all parties to whom notifications have been sent pursuant to sub-paragraph (6); and
 - c. confirmation that, to the best of its knowledge, the Firm has sent notifications pursuant to sub-paragraph (6) to all relevant parties;
- 1.2 The Authority recommends that the Requirements take immediate effect and remain in force unless and until varied or rescinded by the Authority (either on successful application of the Firm or of the Authority's own volition).

2 REASONS FOR ACTION

Summary

- 2.1 The Authority has concluded, on the basis of the facts and matters described below that, in respect of the Firm, it is necessary to exercise its powers under section 55L(2) and 55L(3)(a) of the Act to impose the Requirements on the Firm because it has serious concerns that the Firm is failing, or is likely to fail, to satisfy the Threshold Conditions and it is desirable to advance the Authority's operational objective of securing an appropriate degree of protection for consumers.
- 2.2 The Authority is seeking the imposition of requirements because it has serious concerns that the Firm is failing, or is likely to fail, to satisfy the Threshold Conditions as follows:
 - 1) The Firm is not capable of being effectively supervised by the Authority (COND 2.3.1A, paragraph 2C of Schedule 6 to the Act) because it has not complied with the requirements in SUP 15.3.1R, SUP 15.3.15R and with Principle 11. Specifically, the Firm has failed to notify the Authority, immediately after 5

June 2024 (or at all), that it had been made aware by Trading Standards that a Trading Standards investigation had been started into its affairs; and

- 2) The Firm does not appear to be a fit and proper person having regard to all the circumstances including the need to ensure that its affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers (COND 2.5.1A, paragraph 2E of Schedule 6 to the Act). Specifically, the Firm has provided information and documentation to Company A as supporting evidence for claims made on behalf of two of the Firm's customers under s, which Supervision has serious concerns may not be authentic (as does Company A). The Firm's actions appear to be contrary to the requirements of CMC0B 2.1.1R, in that preparing and/or submitting information which may not be authentic would not be consistent with acting honestly, fairly and professionally in the client's best interests. Company A's concerns over the authenticity of the information and documentation have resulted in it declining the two customer claims that the Firm submitted.
- 2.3 The Authority considers that the Requirements are a proportionate and appropriate means to address the current and immediate risks and are desirable in order to advance the Authority's operational objective of consumer protection.
- 2.4 The Authority considers that imposition of the Requirements should take immediate effect because the matters set out in this First Supervisory Notice demonstrate that the Firm is failing, or is likely to fail, to satisfy the Effective Supervision Threshold Condition and the Suitability Threshold Condition, and because it is desirable to advance the Authority's operational objective of providing an appropriate degree of protection to consumers.

3 DEFINITIONS

- 3.1 The definitions below are used in this First Supervisory Notice:

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

"the Authority" means the Financial Conduct Authority;

"CMC001 regulatory return" means the Annual Claims Management Report form that a claims management company is required to report to the Authority, as set out in SUP;

"CMCOB" means the Claims Management: Conduct of Business sourcebook, which is part of the Handbook;

"Company A" means a financial services firm to whom the Firm submitted Section 75 claims on behalf of Customer 1 and Customer 2;

"Company B" means a contractor whom the Firm purportedly engaged to conduct the removal of spray foam at Customer 1's property;

the "Company B invoice" means an invoice dated 14 March 2024, issued in the name of Company B, purportedly for the removal of spray foam at Customer 1's property in the amount of £5,800, marked paid in full;

the "Company B Quote" means a quote purportedly provided to the Firm by Company B dated 5 March 2023 and which the Firm provided to Company A on 12 March 2024;

"Company C" means a contractor whom Customer 1 stated they engaged to conduct the removal of spray foam at Customer 1's property;

the "Company C invoice" means an invoice dated 11 March 2024 that Company A provided to the Authority, issued in the name of Company C, for the removal of spray foam at Customer 1's property in the amount of £13,320;

"Customer 1" means an individual customer on whose behalf the Firm submitted a Section 75 claim to Company A;

the "Customer 1 Report" means a report in relation to Customer 1's Section 75 claim with a stated inspection date of 5 February 2024 and issued in the name of a Mr X;

"Customer 2" means an individual customer on whose behalf the Firm submitted a Section 75 claim to Company A;

The "Customer 2 Report" means a report in relation to Customer 2's Section 75 claim with a stated inspection date of 12 February 2024 and issued in the name of a Mr X;

"the Director" means the Firm's sole director and person approved by the Authority as a senior manager of the Firm;

"Financial Services Register" means the public record maintained by the Authority;

"the Firm" means Hydrogard Legal Services Limited;

"FOS" means the Financial Ombudsman Service;

"Handbook" means the Authority's online handbook of rules and guidance (as in force from time to time);

"Mr X" means the individual in whose name the Firm submitted to Company A the Customer 1 Report, the Customer 2 Report and the 24 July 2024 Letter;

"Principles" means the Authority's Principles for Businesses, as contained in the "PRIN" sourcebook of the Handbook;

"Requirements" means the requirements imposed on the Firm's Part 4A Permission pursuant to this First Supervisory Notice and as contained in section 1 above;

"RICS" means the Royal Institution of Chartered Surveyors;

"Section 75 claim" means a claim submitted to a financial services firm under section 75 of the Consumer Credit Act 1974;

"SUP" means the Supervision manual, which is part of the Handbook;

"Trading Standards" means the Trading Standards Service for Bracknell Forest, West Berkshire and Wokingham;

"Threshold Conditions" are the minimum requirements that firms need to meet in order to be authorised and to continue carrying on regulated activities as set out in Schedule 6 to the Act;

"Tribunal" means the Upper Tribunal (Tax and Chancery Chamber);

the "24 July 2024 Letter" means a letter dated 24 July 2024, issued in the name of Mr X, and provided by the Firm to Company A; and

"XX" means the signature of Mr X.

4 FACTS AND MATTERS

Background

- 4.1 The Firm was incorporated on 25 May 2016.
- 4.2 On 7 May 2020, the Firm was authorised by the Authority to conduct the regulated activity of claims management. The Firm does not have permission to hold or control client money.
- 4.3 The Firm pursues financial services claims on behalf of consumers who have been allegedly mis-sold certain goods and services including the installation of home improvement products.
- 4.4 If a customer uses a credit card to purchase goods or services in part or in full, and there has been a breach of contract or misrepresentation from the supplier, then that customer may issue a Section 75 claim against their bank or lender to seek recovery of the cost to the customer of the transaction.
- 4.5 The majority of the Firm's claims management activity relates to Section 75 claims for an alleged breach of contract or misrepresentation by companies who had installed 'spray foam' in their customers' homes. The claims, typically, allege that the spray foam caused damage to the customer's property, and seek recovery of a customer's losses arising from this damage, including the cost to remove the spray foam. The Firm also undertakes unregulated activities which involves it working with contractors and arranging the removal of this spray foam insulation via sub-contracting.
- 4.6 In its CMC001 regulatory return for the period ending 31 July 2024, the Firm reported income of £43,313 in respect of its regulated activities, and income of £919,926 in respect of its non-regulated activities. The figures reported in its previous CMC001 regulatory return for the period ending 31 July 2023 was income of £21,006 in respect of its regulated activities and £730,697 in respect of its non-regulated activities.
- 4.7 The Firm has one director and controller, who is also the sole person approved by the Authority in relation to the Firm (the "Director").

Failings and risks identified

Trading Standards' Investigation

- 4.8 From 24 July 2024, the Authority received information from Trading Standards about an investigation it was undertaking into the Firm.
- 4.9 The Firm was informed by Trading Standards on 5 June 2024 that Trading Standards was starting an investigation into the Firm, which Trading Standards confirmed in writing by a letter to the Firm dated 10 June 2024.
- 4.10 In its letter of 5 June 2024, Trading Standards informed the Firm that, "forming contracts for spray foam removal using Hydrogard Legal Services Ltd as a 'way in'

could be seen as a form of 'bait and switch'. You said that the [Authority] would not permit this as it could be seen as 'phoenixing'". This letter also stated that Trading Standards was concerned, based on its review of information Hydrogard had provided to it, that "there is likely to be widespread and serious consumer detriment to a number of people and for this reason I am sending you a notice for the provision of information in order to investigate this matter thoroughly".

- 4.11 On 4 October 2024 Trading Standards informed the Firm that it intended to pursue civil enforcement action against the Firm in relation to unfair commercial practices. The Trading Standards investigation is ongoing and no formal action has been taken by Trading Standards in respect of the Firm as at the date of this Notice.
- 4.12 To date, the Firm has not notified the Authority of Trading Standards' investigation into its affairs or the proposed enforcement action.

Information submitted by the Firm to Company A

- 4.13 Between 22 July 2024 and 21 October 2024, the Authority received documents from Company A in relation to the Section 75 claims for Customer 1 and Customer 2.
- 4.14 The Authority is concerned that various information and/or documents prepared and/or submitted by the Firm in relation to these claims may not be authentic, as follows:

- (A) The Customer 1 Report;
- (B) The 24 July 2024 Letter;
- (C) The Company B invoice; and
- (D) The Customer 2 Report.

The Customer 1 Report

- 4.15 On 11 October 2023, the Firm wrote to Company A concerning a Section 75 claim it was pursuing on behalf of Customer 1, seeking £17,294.80 in full and final settlement for damages in relation to the installation of 'spray foam' at Customer 1's property. The Firm's communication to Company A of 11 October 2023 informed Company A that the customer was unable to sell their property as a result of the spray foam installation. The amount of the claim included £5,800.00 for removal of spray foam from Customer 1's property.
- 4.16 On 29 December 2023, Company A asked the Firm to provide an independent report to corroborate the statement made by the Firm on behalf of Customer 1 that Customer 1 was not able to sell their property as a result of the spray foam being installed. Further to various correspondence between Company A and the Firm relating to the matter, on 10 March 2024, the Firm sent an email to Company A enclosing *"the report as previously requested... The report has been produced for us by Mr [X] MRICS. Mr [X] is registered with RICS and is a professional qualified surveyor. His RICS membership number is: [Y]."* The email attached a report which carried the same details and referred to the date of inspection of Customer 1's property as 5 February 2024 (the "Customer 1 Report"). The Customer 1 Report contained various statements concerning the condition of the spray foam at the property of Customer 1 including, among other things, that it should be removed as soon as possible. The Customer 1 Report also stated that *"in some cases a zero valuation figure could be put on the property...current UK funders are not lending against properties with spray foam insulation"*.
- 4.17 On 4 March 2024, as described further from paragraph 4.26, Company A informed the Firm that it accepted that the spray foam ought to be removed from Customer

1's property. Company A also requested at this time that the Firm provide quotes for the cost of the removal work.

4.18 On 23 May 2024, however, Company A sent an email to the Firm asking it why the address cited on the Customer 1 Report was not in fact the address of Customer 1's property. Company A also stated that it had "*significant concerns about the integrity of the report*", and sought written confirmation (verified by a statement of truth) from the report's author, Mr X, that:

- (A) the Customer 1 Report was bona fide in that Mr X had physically attended Customer 1's property on 5 February 2024;
- (B) that the information in the Customer 1 Report related to what Mr X had observed during his visit that day; and
- (C) that the Customer 1 Report and observations were bespoke to Customer 1.

4.19 The Firm's response to Company A on 6 June 2024 stated that "*The property has been surveyed by Mr [X], Mr [X] passes the details to his PA to type and complete the template document, which as explained is over typed with the new details of the property involved. Mr [X] by his own admission is not an IT specialist, which is why his PA types the reports*". As to the request by Company A for a statement from Mr X, the Firm stated: "*As pointed out to you above in Point 1. The property has been surveyed by Mr [X]*".

4.20 On 11 June 2024, Company A asked the Firm to substantiate its position by providing a blank template of a similar report. The Firm provided this to Company A on 20 June 2024.

The 24 July 2024 Letter - Customer 1

4.21 On 19 July 2024, Company A repeated its request to the Firm for a signed statement from Mr X addressing the matters referred to at 0.

4.22 On 5 August 2024, the Firm provided Company A with a copy of the 24 July Letter and which stated:

"Further to your recent request for me to provide you with a signed statement confirming my attendance at two specific properties, I can confirm that an inspection of the addresses shown below was undertaken and a report provided".

4.23 The 'two specific properties' referenced are understood by the Authority to be the addresses of Customer 1 and (as described further below) Customer 2.

4.24 The 24 July 2024 Letter includes a signature which reads '[XX]' and underneath the signature it states, "*Mr [X] MRICS Independent Quantity and Chartered Building Surveyor*".

4.25 As described further at paragraph 4.43, Mr X contacted the Authority on 12 September 2024. The telephone number, email address and residential address provided in the 24 July Letter are not the same details as the Authority has used to contact Mr X, and in fact:

- (A) the telephone number on the 24 July Letter is the same as the one that appears on the invoice for Company B (in respect of which see further below from paragraph 4.26);

(B) the email address on the 24 July Letter does not match the one held on the records of RICS for Mr X; and

(C) the residential address provided in the 24 July Letter was, between 25 May 2016 and 22 November 2022, the registered office of the Firm.

The Company B invoice

- 4.26 On 4 March 2024, Company A accepted that the spray foam at Customer 1's property should be removed and asked the Firm to provide "3 different quotes from 3 different companies for the remove (sic) of the insulation of (sic) their company headed paper to provide us with a fair set of quotes for the removal".
- 4.27 On 12 March 2024, the Firm provided three quote documents to Company A, one of which was from Company B, was dated 5 March 2024 and which stated "I am happy to honour my original quotation price of £5,800.00 as provided in October 2022" (the "Company B Quote").
- 4.28 On 20 March 2024, Company A confirmed to the Firm that internal approval had been given to issue a full and final settlement on the proof of payment and removal of the loft insulation using Company B.
- 4.29 On 26 March 2024, the Firm sent Company A a document it held out to be proof of payment to Company B in respect of the works at Customer 1's property. The document was entitled 'Invoice', bore the date 14 March 2024, set out an invoice amount of £5,800.00 and was stamped with "Paid in full with thanks" (the "Company B Invoice"). Company A responded to the Firm on the same day confirming they required proof of payment from the account the cardholder had chosen to make the payment from.
- 4.30 On 27 March 2024, the Firm provided Company A with documents from different bank accounts and provided the following explanation as to the amounts shown therein:
- "You will note from the payments the total amount paid was £13,320.00. This was paid to [the Firm] as the customer had previously been scammed by spray foam companies and in order to give peace of mind, we agreed to hold the money until all of the works had been satisfactorily completed and we then paid the contractor accordingly. Please note the cost for the spray foam removal totals £5,800.00 leaving a balance of £7,520.00 which was paid for additional work at the property that had nothing to do with the Section 75 claim".*
- 4.31 The Authority has concerns that the Company B Invoice is not authentic. It is contradicted by a copy of a separate invoice Customer 1 had shared with Company A from a different contractor, Company C (the "Company C invoice"). The Company C invoice bore the date 11 March 2024, a cost of works of £13,320, a stamp 'paid in full with thanks' and a note stating that the balance due was "As agreed with [the Director]". The Authority notes that the Company C invoice amount of £13,320 is the total amount that the Firm stated it had received from Customer 1 across the three bank account statements referred to above.
- 4.32 In providing the Company C invoice to the Authority, Company A confirmed that Customer 1 had provided the document "in support of their recollection that they paid £13,320 to [the Firm] for the removal of the spray foam and that [Company C] completed the removal works." Company A also confirmed that Customer 1 denied having paid only £5,800 for removal works and £7,520 for unrelated

improvements to their home, as had been asserted by the Firm to Company A when the Firm was presenting information relating to Customer 1's Section 75 claim.

- 4.33 The Authority also notes that the fact the invoice is marked as 'paid in full with thanks' strongly indicates that the works had already taken place at that date (11 March 2024). Company C would, accordingly, have been paid both before the date that the Firm provided three quotes for proposed works from other contractors to Company A (12 March 2024), but also before Company A approved works to proceed on 20 March 2024.
- 4.34 The Authority has serious concerns based on these matters that the Firm may have misrepresented to Company A as to whether relevant works to Customer 1's property had already taken place, who had undertaken them and how much they had cost. The Authority also has very serious concerns that the Company B invoice and the related documents received from Customer 1 by Company A show that the amount the Firm claimed on behalf of Customer 1 was less than the amount paid by Customer 1 to the Firm to settle the cost of the works.

The Customer 2 Report

- 4.35 The Firm also submitted a Section 75 claim on behalf of Customer 2 to Company A, seeking £9,372.00 in full and final settlement for damages in relation to the installation of 'spray foam' at Customer 2's property. The amount of the claim included £4,680.00 for removal of spray foam from Customer 2's property.
- 4.36 On 19 January 2024, Company A wrote to the Firm seeking an independent report supporting Customer 2's claim.
- 4.37 The Firm provided the Customer 2 Report to Company A on 22 March 2024. The Customer 2 Report contained the details of Mr X and referred to a date of inspection of Customer 2's property of 12 February 2024. The Customer 2 Report contained various statements concerning the condition of the spray foam at the property of Customer 2 in support of the claim, including, among other things, that (as for the Customer 1 Report) it should be removed as soon as possible and that "*in some cases a zero valuation figure could be put on the property...current UK funders are not lending against properties with spray foam insulation*".

The 24 July 2024 Letter - Customer 2

- 4.38 On 23 May 2024, Company A raised a query with the Firm as to the integrity of the Customer 2 Report and requested the Firm provide a signed confirmation from Mr X that he had indeed physically attended Customer 2's property on 12 February 2024.
- 4.39 On 5 August 2024, the Firm provided to Company A the 24 July Letter in support of Customer 2's Section 75 claim.

The claim outcomes

- 4.40 Company A declined the Section 75 claims for Customer 1 and Customer 2 on 30 August 2024, noting that it was doing so owing to "concerns about the authenticity of the expert report provided".
- 4.41 The Firm has subsequently disputed Company A's decision to decline each claim and, on 19 September 2024, provided certain further documents in respect of each claim to Company A. On 24 September 2024, Company A wrote to the Firm and

informed it that it had reviewed the additional information provided but continued to have concerns over the authenticity of certain documents provided and which related to Mr X. Consequently, Company A confirmed that it was declining each claim.

4.42 The Firm submitted a complaint to Company A in respect of its decision to decline the Section 75 claims of Customer 1 and Customer 2. On 8 October 2024, in response to this complaint, Company A wrote to the Firm and stated that it had completed a full investigation into the matter and would not be upholding the Firm's complaint.

Information received from Mr X

4.43 On 12 September 2024, the Authority received information through its website from Mr X, raising concerns that his details were being used without his knowledge or consent by the Firm. Mr X informed the Authority that he did not carry out the relevant property inspections and had not provided any reports at all to the Firm. Mr X also provided to the Authority a copy of the 24 July Letter, which he stated was provided to him by Company A when it had sought to verify his involvement with the Firm. Mr X specifically confirmed to the Authority that he had never worked with the Firm and had never provided it with any reports.

4.44 As set out further below, the Authority has taken steps to verify the identity of and review the concerns raised by Mr X. The Authority is satisfied that this individual is Mr X whose details were used on the Customer 1 Report, the Customer 2 Report and the 24 July 2024 Letter, and that he has raised bona fide concerns.

The Authority's concerns

4.45 Due to the matters contained in this First Supervisory Notice, the Authority therefore considers that, together with the correspondence between the Firm and Company A, the information provided by Mr X raises very serious concerns that:

(A) the Customer 1 Report was not authentic, in that it was not prepared by Mr X but it was issued by the Firm to Company A in his name, together with his personal RICS accreditation details;

(B) the Customer 2 Report was not authentic, in that it was not prepared by Mr X but it was issued by the Firm to Company A in his name, together with his personal RICS accreditation details.

(C) the 24 July Letter is not authentic, in that it was not prepared by Mr X but it was issued by the Firm to Company A in his name, together with his personal RICS accreditation details; and

(D) For the reasons set out above, including at paragraph 4.31-4.34 the Company B invoice is not authentic.

4.46 Each of these documents has been presented by the Firm to be authentic in its engagement with Company A, as part of the Firm's attempts to obtain payment of sums from Company A in respect of Customer 1 and Customer 2's Section 75 claims. In submitting documents in respect of which Company A had serious

concerns as regards authenticity, however, the Firm appears to have prejudiced the otherwise potentially valid claims of Customer 1 and Customer 2.

Engagement with the Firm

- 4.47 On 30 May 2024, the Authority sent an email to Hydrogard. The Authority referred to the CMC001 regulatory return submitted by the Firm for the period up to 31 July 2023 which indicated that the Firm submitted 12 successful consumer credit claims out of 150 it pursued during this period. The Authority therefore requested information from Hydrogard, including various information and documents about its business model and operations.
- 4.48 The Firm responded to the Authority stating, among other things, that it has been *“providing a lot of information to Trading Standards in order to assist them in stopping scammers and rogue traders from deceiving consumers”*. It stated that it only undertakes regulated claims management activities, and that all *“of the claims management work that we undertake, are strong and legally sound in argument, they are based upon fact, they are not frivolous or vexatious, unless you are of course the manufacturer, distributor, installer or sales companies who sell spray foam insulation, then and only then could they be classified as vexatious, annoying, bothersome, irritable and annoying”*. The Authority understands that the Firm was not aware, as at the date of this response, of the Trading Standards’ investigation.
- 4.49 On 5 June 2024, the Firm was informed by Trading Standards of its investigation. The Firm did not inform the Authority of this matter at this point or thereafter, and the Authority was first informed (by Trading Standards) of the investigation on 24 July 2024.
- 4.50 On 6 June 2024, the Authority sent an email to the Firm, requesting information relating to, amongst other things, income it receives from non-regulated activities. On 9 June 2024, the Firm sent an email to the Authority which stated, among other things:

“We undertake work that is unregulated, and this involves us working with trusted contractors and arranging the removal of spray foam insulation from internal loft spaces. We promote the fact that the spray foam industry in its entirety is unregulated including manufacturer’s, distributors, installers, sales companies and even our own service. Everyone is unregulated.

“NB: When we complete this work, it is from incoming enquiries only. Everyone is made aware that we use professional roofers and sub-contract the work out to those contractors”.

“The FCA have previously asked us about this, and we do not use our FCA Claims Management Activity to promote the removal part of the business, I believe you refer to this as the “HALO” effect”.

- 4.51 On 12 September 2024, the Authority sent a letter to the Firm requiring the provision of certain information and documents under section 165 of the Act.
- 4.52 On 25 September 2024, the Firm provided its response to the Authority's section 165 request of 12 September 2024, which included details of all of the regulated claims management business the Firm had been involved in from 12 September 2022 through to 12 September 2024. The information provided shows that the average age for the Firm's client base is approximately between 69 and 71 years. The Authority notes that clients of around this age may be more likely to have retired, which represents a life event which may be a characteristic associated with a driver of vulnerability. Further, the information provided shows that the total value of outstanding claims for consumers is approximately £3,112,518.
- 4.53 On 15 October 2024, the Firm provided updated information to the Authority in relation to its client base. Among other things, the Firm's client data showed 12 claims stated to be declined by the Financial Ombudsman on 4 September 2024, and that the Firm was pursuing a further 9 ongoing claims relating to spray foam.
- 4.54 Despite this engagement, the Firm has at no stage informed the Authority of Trading Standards' investigation into its affairs.

5 CONCLUSION

- 5.1 The regulatory provisions relevant to this First Supervisory Notice are set out in the Annex.

Analysis of failings and risks

COND 2.3 – Effective supervision

- 5.2 COND 2.3.1A sets out that a firm must be capable of being effectively supervised, including: (a) the nature (including the complexity) of the regulated activities that the firm carries on or seeks to carry on; (b) the complexity of any products that the firm provides or will provide in carrying on those activities; and (c) the way in which the firm's business is organised.
- 5.3 COND 2.3.3(1)G explains that, in assessing whether a firm is meeting the Effective Supervision Threshold Condition, factors which the Authority will take into consideration include whether it is likely that the Authority will receive adequate information from the firm to enable it to determine whether the firm 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 the Supervision (SUP) section of the FCA Handbook on the provision of information to the Authority.

- 5.4 Principle 11 provides that a firm must deal with its regulators in an open and cooperative way and must disclose to the Authority anything relating to the firm of which it would reasonably expect to have notice.
- 5.5 SUP 15.3.1(2)R states that a firm must notify the Authority immediately if it becomes aware of any matter which could have a significant adverse impact on the firm's reputation. SUP 15.3.15(3)R sets out that a firm must notify the Authority immediately if disciplinary measures or sanctions have been imposed on the firm by any statutory or regulatory authority, competition authority, professional organisation or trade body (other than the Authority) or the firm becomes aware that one of those bodies has started an investigation into its affairs.
- 5.6 Trading Standards informed the Authority that during a meeting with the Firm on 5 June 2024, Trading Standards informed the Firm that it was starting an investigation into the Firm. Trading Standards also informed the Firm on 4 October 2024 that it intended to pursue civil enforcement action against the Firm in relation to unfair commercial practices. The Trading Standards investigation into the Firm is ongoing and no formal action has been taken by Trading Standards in respect of the Firm as at the date of this First Supervisory Notice.
- 5.7 The Firm did not notify the Authority immediately (or at all) of the Trading Standards' investigation into the Firm's affairs, or the enforcement action being taken against it, in accordance with its obligation under Principle 11, SUP 15.3.1R and SUP 15.3.15(3)R.
- 5.8 The Authority considers that the Firm's failure to notify the Authority of the Trading Standards investigation has prevented the Authority from being able to properly assess the risks posed to the Firm's customers, and the Authority cannot effectively supervise the Firm.
- 5.9 The Authority considers that, as the Firm is no longer capable of being effectively supervised, it should not be undertaking any regulated activity.

Suitability (COND 2.5)

- 5.10 COND 2.5.1A(1) states that a firm must be a fit and proper person having regard to all the circumstances, including the nature and complexity of any regulated activity that the firm carries on or seeks to carry on (COND 2.5.1A (1)(b)) and the need to ensure that the firm's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers (COND 2.5.1A (1)(c)).
- 5.11 Also, CMCOB 2.1.1R of the Authority's Claims Management: Conduct of Business Sourcebook ("CMCOB"), which applies to the Firm, requires the Firm to "act honestly, fairly and professionally in accordance with the best interest of its customer."
- 5.12 As set out in paragraphs 4.13-4.42 of this First Supervisory Notice, between at least 11 October 2023 and 19 September 2024, the Firm was engaged with Company A on behalf of Customer 1 and/or Customer 2 during which engagement it provided Company A with five documents and/or pieces of information that the Authority considers raises concerns as to their authenticity. In so doing, the Firm prejudiced potentially valid claims of Customer 1 and Customer 2 and Company A declined them owing to its concerns about the integrity of the information provided by the Firm.
- 5.13 The Firm also does not appear to have acted in accordance with CMCOB 2.1.1R,

which requires a firm to act honestly, fairly and professionally in accordance with the best interests of consumers. Therefore, the Authority considers that the Firm is not a fit and proper person having regard in particular to the interest of consumers.

The Authority's consumer protection objective

- 5.14 The Authority's operational objective of consumer protection requires the Authority to secure an appropriate degree of protection for consumers (section 1C(1) of the Act).
- 5.15 As stated above, two of the Firm's customers have had their Section 75 claims declined due to concerns around the authenticity of information and documentation submitted by the Firm to Company A on their behalf. The Firm's approach to these two claims raises serious concerns that there is a risk it may be replicated in the Firm's other regulated activities, including in respect of other Section 75 claims. This therefore presents a risk of harm to the Firm's customers or to prospective customers. The Authority notes in particular that Trading Standards has informed the Firm that it is concerned that certain of the Firm's activities are "likely" to have resulted in serious consumer detriment.
- 5.16 On the basis of the facts and matters set out, it appears to the Authority that it is also desirable to exercise the power under section 55L(3) of the Act as it appears to the Authority that it is desirable to exercise the power in order to advance the Authority's consumer protection objective.

Timing and duration of the Requirements

- 5.17 It is necessary to impose the Requirements immediately given the seriousness of the risks and the need to protect consumers.
- 5.18 The Authority considers that it is necessary for the Requirements to remain in place until varied or cancelled by the Authority (either on the application of the Firm or of the Authority's own volition).

6 PROCEDURAL MATTERS

Decision-maker

- 6.1 The decision which gave rise to the obligation to give this First Supervisory Notice was made by an Authority staff member under executive procedures according to DEPP 2.5.7G and DEPP 4.1.7G.
- 6.2 This First Supervisory Notice is given under section 55Y(4) and in accordance with section 55Y(5) of the Act.
- 6.3 The following statutory rights are important.

Representations

- 6.4 The Firm has the right to make written representations to the Authority (whether or not it refers this matter to the Tribunal). The Firm may also request to make oral representations, but the Authority will only consider this in exceptional circumstances according to DEPP 2.3.1AG. The deadline for providing written representations and notifying the Authority that the Firm wishes to make oral representations is 3 December 2024 or such later date as may be permitted by the Authority. Any notification or representations should be sent to the Executive

Decision-Making Secretariat (EDMCaseInbox@fca.org.uk).

The Tribunal

- 6.5 The Firm has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. The Tax and Chancery Chamber is part of the Tribunal which, amongst other things, hears references arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Firm has 28 days from the date on which this First Supervisory Notice is given to it to refer the matter to the Tribunal.
- 6.6 A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by or on behalf of the Firm and filed with a copy of this First Supervisory Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, 5th Floor, Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: uttc@hmcts.gsi.gov.uk).
- 6.7 Further information on the Tribunal, including guidance and the relevant forms to complete, can be found on the HM Courts and Tribunal Service website: <http://www.justice.gov.uk/forms/hmcts/tax-and-chancery-upper-tribunal>
- 6.8 The Firm should note that a copy of the reference notice (Form FTC3) must also be sent to the Authority at the same time as a reference is filed with the Tribunal. A copy of the reference notice should be sent to the Executive Decision-Making Secretariat (EDMCaseInbox@fca.org.uk).

Confidentiality and publicity

- 6.9 The Firm should note that this First Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining legal advice on its contents).
- 6.10 The Firm should note that section 391(5) of the Act requires the Authority, when the First Supervisory Notice takes effect, to publish such information about the matter to which the notice relates as it considers appropriate.

Authority contacts

- 6.11 Any questions regarding the executive procedures decision-making process should be directed to the Executive Decision-Making Secretariat (EDMCaseInbox@fca.org.uk).

Head of Department, Consumer Finance

Annex

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives established in section 1B of the Act include securing an appropriate degree of protection for consumers.
2. Section 55L of the Act allows the Authority to impose a new requirement on an authorised person if it appears to the Authority that the authorised person is failing, or likely to fail to satisfy the Threshold Conditions (section 55L(2)(a)), or it is desirable to exercise the power in order to advance one or more of the Authority's operational objectives (section 55L(2)(c)).
3. Section 55N of the Act allows a requirement to be imposed under section 55L of the Act so as to require the person concerned to take specified action (section 55N(1)(a)), or to refrain from taking specified action (section 55N(1)(b)).
4. Section 55Y(3) of the Act allows a requirement to take effect immediately (or on a specified date) if the Authority, having regard to the ground on which it is exercising its own-initiative power, reasonably considers that it is necessary for the requirement to take effect immediately (or on that date).
5. Section 391 of the Act provides that:
“[...]”
 - (5) When a supervisory notice takes effect, the Authority must publish such information about the matter to which the notice relates as it considers appropriate.
 - (6) But the Authority may not publish information under this section if in its opinion, publication of the information would, be unfair to the person with respect to whom the action was taken or proposed to be taken [or] prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
 - (7) Information is to be published under this section in such manner as the Authority considers appropriate.”

RELEVANT REGULATORY PROVISIONS

The Enforcement Guide

6. The Authority's approach in relation to its enforcement powers is set out in Chapter 8 of the Enforcement Guide (EG), certain provisions of which are summarised below.
7. EG 8.1.1 reflects the provisions of section 55L of the Act by stating that the Authority may use its own-initiative power to impose requirements on an authorised person where, amongst other factors, the person is failing or is likely to fail to satisfy the threshold conditions for which the Authority is responsible (EG 8.1.1(1)), or it is desirable to exercise the power in order to advance one or more of its operational objectives (EG 8.1.1(3)).
8. EG 8.2.1 states that when the Authority considers how it should deal with a concern about a firm, it will have regard to its statutory objectives and the range of regulatory tools that are available to it. It will also have regard to the principle that a restriction imposed on a firm should be proportionate to the objectives the Authority is seeking to achieve (EG 8.2.1(2)).

9. EG 8.2.3 states that in the course of its supervision and monitoring of a firm or as part of an enforcement action, the Authority may make it clear that it expects the firm to take certain steps to meet regulatory requirements. In the vast majority of cases the Authority will seek to agree with a firm those steps the firm must take to address the Authority's concerns. However, where the Authority considers it appropriate to do so, it will exercise its formal powers under section 55J of the Act to vary a firm's permission and/or under section 55L of the Act to impose a requirement to ensure such requirements are met. This may include where, amongst other factors, the Authority has serious concerns about a firm, or about the way its business is being or has been conducted (EG 8.2.3(1)) or is concerned that the consequences of a firm not taking the desired steps may be serious (EG 8.2.3(2)).
10. EG 8.3.1 states that the Authority may impose a variation of permission or a requirement so that it takes effect immediately or on a specified date if it reasonably considers it necessary for the requirement to take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative powers.
11. EG 8.3.2 states that the Authority will consider exercising its own-initiative power where: 1) the information available to it indicates serious concerns about the firm or its business that need to be addressed immediately; and 2) circumstances indicate that it is appropriate to use statutory powers immediately to require and/or prohibit certain actions by the firm in order to ensure the firm addresses these concerns.
12. EG 8.3.3 states that it is not possible to provide an exhaustive list of the situations that will give rise to such serious concerns, but they are likely to include one or more of four listed characteristics, these include: 1) information indicating significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests; 2) information indicating that a firm's conduct has put it at risk of being used for the purposes of financial crime, or of being otherwise involved in crime; 3) evidence that the firm has submitted to the Authority inaccurate or misleading information so that the Authority becomes seriously concerned about the firm's ability to meet its regulatory obligations; 4) circumstances suggesting a serious problem within a firm or with a firm's controllers that calls into question the firm's ability to continue to meet the threshold conditions.
13. EG 8.3.4 states that the Authority will consider the full circumstances of each case when it decides whether a variation of a Part 4A permission under or an imposition of a requirement is appropriate and sets out a non-exhaustive list of factors the Authority may consider, these include:
 - a. EG 8.3.4(4) concerning the seriousness of any suspected breach of the requirements of the legislation or the rules and the steps that need to be taken to correct that breach.
 - b. EG 8.3.4(8) concerning the firm's conduct. The Authority will take into account whether the firm identified the issue, brought it promptly to the Authority's attention and what steps the firm has taken or is taking to address the issue.
14. EG 8.3.4(9) includes the impact that use of the Authority's own-initiative powers will have on the firm's business and on its customers. The Authority will need to be satisfied that the impact of any use of the own-initiative power is likely to be proportionate to the concerns being addressed, in the context of the overall aim of achieving its statutory objectives.

Threshold Conditions

15. The section of the Handbook entitled "Threshold Conditions" (COND) gives guidance on threshold conditions. COND 1.2.3G provides that the Authority may exercise its own-initiative powers under section 55L and/or section 55J of the Act if, among other things, a firm is failing to satisfy any of the Threshold Conditions or is likely to do so.
16. COND 1.3.2G states that the Authority will consider whether a firm satisfies, and will continue to satisfy, the Threshold Conditions in the context of the size, nature, scale and complexity of the business which the firm carries on or will carry on if the relevant application is granted.

7. COND 2.3.1A (para 2C, Sch. 6) states that the firm:

- (1) [...] *must be capable of being effectively supervised by the FCA having regard to all the circumstances including – [...]*
 - (c) *The way in which the firm's business is organised; [...]*
 - (f) *If the Firm has close links with another person (CL)-*
 - (i) *the nature of the relationship between the Firm and CL;*
 - (ii) *whether those links are or that relationship is likely to prevent the FCA's effective supervision of the Firm; [...]*

17. COND 2.3.3G states that in assessing the Threshold Conditions set out in paragraphs 2C and 3B of Schedule 6 to the Act (which includes the Effective Supervision Threshold Condition), factors which the FCA will take into consideration include, among other things, whether:

(1) it is likely that the FCA will receive adequate information from the firm, and those persons with whom the firm has close links, to enable it to determine whether the firm is complying with the requirements and standards under the regulatory system for which the FCA 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 FCA; [...]

18. COND 2.5.6G states that the FCA may have regard to include, but are not limited to, whether:

1. the firm has been open and co-operative in all its dealings with the FCA 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 FCA 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 [...]

Principles for Businesses ("PRIN")

19. Principle 11 of PRIN states that a firm must deal with its regulators in an open and cooperative way, and must disclose to the Authority appropriately anything relating to the firm of which that regulator would reasonably expect notice.

Supervision Manual ("SUP")

20. Chapter 15 of SUP sets out the Authority's rules on events and changes in condition that a firm must notify, usually as soon as possible, if the Authority is to be able to carry out its monitoring function effectively and react in good time to developments that may require a regulatory response.
21. SUP 15.3.1 R states that a firm must notify the Authority immediately if it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:
 1. the firm failing to satisfy one or more of the threshold conditions; or
 2. any matter which could have a significant adverse impact on the firm's reputation; or
 3. any matter which could affect the firm's ability to continue to provide adequate services to its customers and which could result in serious detriment to a customer of the firm.
22. SUP 15.3.15R states that a firm must notify the Authority immediately if (3) disciplinary measures or sanctions have been imposed on the firm by any statutory or regulatory authority, competition authority, professional organisation or trade (other than the Authority) or the firm becomes aware that one of those bodies has started an investigation into its affairs.