
SECOND SUPERVISORY NOTICE

To: **Newport Services (UK) Ltd (the "Firm")**

Address: **Edinburgh House
170 Kennington Lane
London
SE11 5DP**

FRN: **540959**

Dated: **13 April 2021**

ACTION

1. On 13 January 2021, pursuant to Regulation 12 of the 2017 PSRs, the Authority gave the Firm a First Supervisory Notice which notified the Firm of the Authority's decision to vary the authorisation granted to the Firm under Part 2 of the 2017 PSRs, by removing from the Firm's authorisation, with immediate effect, the payment service for which the Authority had granted authorisation. For the reasons given in this Second Supervisory Notice, the Authority has decided not to rescind the variation of the Firm's authorisation. Accordingly, the Firm continues not to be authorised to engage in money remittance activities.

REASONS FOR ACTION

2. On the basis of the facts and matters described in this Second Supervisory Notice, having considered the representations made by the Firm on the First Supervisory Notice, it continues to appear to the Authority that the Firm breached Regulation 37 of the 2017 PSRs (and, as applicable, Regulation 32 of the 2009 PSRs) by failing to disclose significant changes in its circumstances which are relevant to its ability

to meet the Conditions for Authorisation detailed in Regulations 6(6) and 6(7) of the 2017 PSRs (and the corresponding provisions of the 2009 PSRs).

3. It also continues to appear to the Authority that the Firm is not meeting the Conditions for Authorisation contained in Regulation 6(6)(a)-(c) of the 2017 PSRs which are directed at ensuring that an API is run in a sound and prudent manner.
4. Further, it continues to appear to the Authority that the variation of the Firm's authorisation, as described in paragraph 1 above, is desirable to protect the interests of consumers. The Firm's authorisation as a money remitter would constitute a risk to consumers because the Firm failed to disclose certain serious and highly relevant matters to the Authority. A firm which does not disclose such matters to its regulator – and which appears not to be meeting the Conditions for Authorisation – poses an inherent risk to consumers.
5. It also continues to appear to the Authority that, in all the circumstances, allowing the Firm to continue to carry out payment services would constitute a threat to the stability of, or trust held in, the payment system in which it is involved.
6. As a result, the Authority has decided not to rescind the variation of the Firm's authorisation.

DEFINITIONS

7. The definitions below are used in this First Supervisory Notice:
 - a) "the 2009 PSRs" means the Payment Services Regulations 2009;
 - b) "the 2017 PSRs" means the Payment Services Regulations 2017, which replaced the 2009 PSRs from 13 January 2018;
 - c) "AML" means anti-money laundering;
 - d) "the Act" means the Financial Services and Markets Act 2000;
 - e) "API" means Authorised Payment Institution;
 - f) "the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;
 - g) "Conditions for Authorisation" mean the conditions for authorisation as a payment institution set out in Regulation 6 of the 2017 PSRs (and/or the corresponding provisions of the 2009 PSRs);
 - h) "the Court" means the City of London Magistrates' Court;
 - i) "the Firm" means Newport Services (UK) Ltd, an API trading as "CurrencyCo";
 - j) "Firm A" means the company which acquired the Firm on 21 March 2018;
 - k) "First Supervisory Notice" means the First Supervisory Notice given to the Firm dated 13 January 2021;

- l) "the Handbook" means the Authority's Handbook of Rules and Guidance;
- m) "the Information" means the document provided to the Westminster Magistrates Court by the MPS on 23 September 2019 containing information in support of its application under POCA for the forfeiture of cash seized from the Firm;
- n) "the MPS" means the Metropolitan Police Service;
- o) "Mr A" means an individual who, between 9 May 2013 and 5 April 2017, was a director at the Firm;
- p) "Mr B" means an individual who, until 28 January 2021, was a director and person of "*significant influence or control*" at the Firm;
- q) "Mr C" means an individual who, between 24 April 2017 and 8 July 2020, was a director at the Firm;
- r) "Ms D" means an individual who was appointed as a director of the Firm on 20 July 2020, and is currently the sole director of the Firm;
- s) "the Order" means the Order for Forfeiture of Detained Cash made by the Court on 4 March 2020;
- t) "POCA" means the Proceeds of Crime Act 2002;
- u) "the RDC" means the Authority's Regulatory Decisions Committee (see further under Procedural Matters below);
- v) "the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber); and
- w) "VS1" means VS1 Business Services (Europe) Ltd.

FACTS AND MATTERS RELIED ON

8. The Firm was first authorised by the Authority to engage in money remittance activities on 24 January 2012 under the 2009 PSRs. On 27 June 2018, the Firm was authorised by the Authority under the 2017 PSRs to engage in money remittance activities as an API. In order to be authorised under the 2017 PSRs, the Firm was required to submit an application to the Authority.
9. The Firm informed the Authority in its representations on the First Supervisory Notice that, having previously operated from 10 premises, it now operates solely from its registered office at Unit 325 Edinburgh House, 170 Kennington Lane, London SE11 5DP. However, according to the Firm's website - <https://www.npsukltd.com/> - it appears to operate and offer consumer facing services through that website, with contact primarily by phone, email, live chat, social media or in person at a branch at 117 Queen's Road, London SE15 2EZ.
10. Mr A was, from 9 May 2013 until 5 April 2017, a director of the Firm. In June 2016, at which time Mr A was the sole director of the Firm, as part of an investigation into the activities of a cash processing company, a search warrant was executed by the MPS at the Firm's principal place of business, head office and another branch,

resulting in the seizure of a substantial amount of cash as well as other items. Mr A was interviewed under caution on suspicion of involvement by the Firm, and himself personally, in criminal offences.

11. On 23 September 2019, the MPS applied to the Westminster Magistrates' Court for the forfeiture of the cash seized at the Firm, under POCA. As part of the POCA proceedings, to which the Firm was a party, the MPS served upon the Firm the Information. The Information contains detailed allegations of involvement in facilitating criminality – particularly handling the proceeds of crime – by the Firm, by Mr A, and by others linked to the Firm. The Information refers to Mr B, who was a director of the Firm between 5 April 2017 and 28 January 2021 (and previously between 5 February 2011 and 31 October 2011) and a person who, according to Companies House records, was the Firm's sole shareholder until 1 April 2018 and, between 1 June 2019 and 28 January 2021, had significant influence or control of the Firm. Mr B has also since 1 February 2011 been a director of VS1, a firm that was authorised by the Authority to carry out payment services until its authorisation was varied, with immediate effect, by way of a First Supervisory Notice issued on 23 July 2019. The Authority subsequently issued a Second Supervisory Notice on 10 October 2019 which set out its decision, following consideration of representations made by VS1, not to rescind the variation of VS1's authorisation. VS1 shared business premises with the Firm and was also subject to the June 2016 search warrant, which it failed to disclose to the Authority (which precipitated the issue of its First Supervisory Notice).
12. The Information also detailed other cash forfeiture proceedings to which the Firm had been subject and cast doubt on figures submitted by the Firm in attempting to defend the POCA proceedings. The Information also alleged that the Firm had engaged in tax evasion and that it was controlled by a "shadow director" linked to serious criminality.
13. On 4 March 2020, the City of London Magistrates' Court made an Order for Forfeiture of Detained Cash, namely that the sum of £1,194,196 seized from the Firm, including interest, be forfeited on the basis that, on the balance of probabilities, it represented the proceeds of crime.
14. Regulation 32 of the 2009 PSRs and Regulation 37 of the 2017 PSRs (as applicable) required all of the above matters to be proactively disclosed to the Authority without undue delay. Neither the Firm nor Mr A proactively notified the Authority about the execution of the search warrant, the seizure of cash and other items, or Mr A's arrest. However, the Firm did confirm to the Authority on 8 March 2017, in response to an enquiry submitted on 3 March 2017, that the search warrant had been executed and that cash and other items had been seized.
15. Further, the Firm failed to notify the Authority that it had been made the subject of cash forfeiture proceedings, that the Information – alleging involvement by the Firm in facilitating serious criminality – had been served upon it, or that it had been deemed by a court that the seized funds represented the proceeds of crime.
16. In its 2018 application for authorisation under the 2017 PSRs, the Firm was required to provide information regarding the suitability of Mr B, as a director of the Firm, including relevant information on criminal investigations. However, the Firm failed to disclose the fact that, at the time that Mr B was the sole shareholder of the Firm,

the MPS had executed a search warrant and seized cash and other items from the Firm's premises.

FAILINGS AND RISKS TO OPERATIONAL OBJECTIVES

17. The regulatory provisions relevant to this Second Supervisory Notice are set out in Annex A.
18. From the facts and matters described above, the Authority, having regard to its operational objectives, which include the protection of consumers and the integrity of the UK financial system, has reached the following conclusions:
 - a) It should have been apparent to the Firm that the execution of the search warrant in June 2016, the resulting seizure of cash and other items, and the arrest of Mr A, was a significant change of circumstances which was relevant to the Firm's fulfilment of the Conditions for Authorisation set out in: (a) Regulation 6(5) of the 2009 PSRs, namely that the Firm must conduct its affairs in a sound and prudent manner, including the need for it to have robust governance arrangements, effective risk management procedures and adequate internal controls; and (b) Regulation 6(6)(b) of the 2009 PSRs, namely that the Firm's directors must be of good repute.
 - b) It should have been apparent to the Firm that the fact that it had been made the subject of cash forfeiture proceedings, that the Information – alleging involvement by the Firm in facilitating serious criminality – had been served upon it, and that it had been deemed by a court that the sum of £1,194,196 seized from the Firm represented the proceeds of crime, each constituted a significant change of circumstances which was relevant to the Firm's fulfilment of the Conditions for Authorisation set out in: (a) Regulation 6(6) of the 2017 PSRs, namely that the Firm must conduct its affairs in a sound and prudent manner, including the need for it to have robust governance arrangements, effective risk management procedures and adequate internal controls; and (b) Regulation 6(7)(b) of the 2017 PSRs, namely that the Firm's directors must be of good repute.
 - c) The above matters should have been disclosed to the Authority, and the Firm's failure to do so appears to constitute a breach of Regulation 32 of the 2009 PSRs and Regulation 37 of the 2017 PSRs, as applicable. The execution of the search warrant and the seizure of cash and other items by the MPS in June 2016, when Mr B was the sole shareholder of the Firm, should also have been disclosed in 2018 when the Firm was applying to be authorised under the 2017 PSRs.
 - d) As a result of the non-disclosures set out above and, separately, the execution of the search warrant, the allegations in the Information that the Firm was involved in facilitating serious criminality, and the forfeiture of the cash seized on the basis that (on the balance of probabilities) it represented the proceeds of crime, it also appears to the Authority that the Firm does not meet, or is unlikely to continue to meet, the Conditions for Authorisation set out in Regulation 6(6) of the 2017 PSRs, regarding the need to ensure the sound and prudent conduct of the affairs of the institution. These matters cause the Authority concern that the Firm may lack robust governance arrangements,

effective procedures to identify, manage, monitor and report risk, or adequate internal control mechanisms.

- e) The Authority considers that the variation of the Firm's authorisation remains desirable to protect the interests of consumers. This is because it appears that the Firm is not run in a sound and prudent manner and because the Firm's non-disclosures related to serious and highly relevant information of which the Authority would expect to be notified. A firm which is not run in a sound and prudent manner and which does not engage with its regulator to disclose such serious matters presents an inherent risk to consumers.
- f) The Authority considers that these matters are so serious that the Firm's provision of payment services would constitute a threat to the trust held in the payment services system.
- g) It therefore appears to the Authority that it was appropriate to vary the Firm's authorisation in the manner described above, and to do so with immediate effect, pursuant to Regulation 12 of the 2017 PSRs, and that it is not appropriate to rescind that variation. This is also in line with the Authority's operational objectives, specifically the consumer protection and integrity objectives.

REPRESENTATIONS

- 19. Annex B contains a brief summary of the key representations made by the Firm and how they have been dealt with. In making the decision which gave rise to the obligation to give this Second Supervisory Notice, the Authority has taken into account all of the representations made by the Firm, whether or not set out in Annex B.

PROCEDURAL MATTERS

- 20. This Second Supervisory Notice is given to the Firm under Regulation 12(9) of the 2017 PSRs and in accordance with Regulation 12(11) of the 2017 PSRs.
- 21. The following paragraphs are important.

Decision Maker

- 22. The decision which gave rise to the obligation to give this Second Supervisory Notice was taken by the RDC. The RDC is a committee of the Authority which takes certain decisions on behalf of the Authority. The members of the RDC are separate to the Authority staff involved in conducting investigations and recommending action against firms and individuals. Further information about the RDC can be found on the Authority's website:

<https://www.fca.org.uk/about/committees/regulatory-decisions-committee-rdc>

The Tribunal

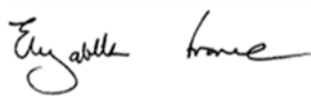
23. The Firm has the right to refer the matter to which this Second Supervisory Notice relates to the Tribunal. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Firm has 28 days from the date on which this Second Supervisory Notice is given to it to refer the matter to the Tribunal.
24. A reference to the Tribunal is made by way of a signed reference notice (Form FTC3) 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 Buildings, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: utt@hmcts.gsi.gov.uk).
25. 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>
26. A copy of Form FTC3 must also be sent to Tania Dratcu at the Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN at the same time as filing a reference with the Tribunal.

Publicity

27. The Firm should note that section 391 of the Act, as applied by paragraph 10 of Schedule 6 to the 2017 PSRs, requires the Authority, when this Second Supervisory Notice takes effect, to publish such information about the matter as it considers appropriate.

Contacts

28. For more information concerning this matter generally, the Firm should contact Tania Dratcu at the Authority (direct line: 020 7066 6764 / email: Tania.Dratcu@fca.org.uk).



Elizabeth France
Deputy Chair, Regulatory Decisions Committee

ANNEX A

RELEVANT STATUTORY PROVISIONS

1. The Authority's operational objectives established in section 1B of the Act include the consumer protection objective. Section 1C(1) of the Act provides that the consumer protection objective is "securing an appropriate degree of protection for consumers".
2. The Authority's integrity operational objective is set out in section 1D of the Act as "protecting and enhancing the integrity of the UK financial system". The integrity of the UK financial system includes the "orderly operation of the financial markets".
3. Regulation 8 of the 2017 PSRs provides that the Authority may vary a firm's authorisation by adding or removing a payment service from those for which it was granted authorisation. The Authority is authorised by Regulation 12 of the 2017 PSRs to vary a firm's authorisation as specified in Regulation 8 where it appears to the Authority that:
 - a) the person appears unlikely to meet any of the Conditions for Authorisation in Regulation 6(4) – (9) of the 2017 PSRs, or does not inform the Authority of a major change in circumstance which is relevant to its meeting those Conditions for Authorisation as required by Regulation 37 (Regulation 12(1)(a));
 - b) the person would constitute a threat to trust in a payment system by continuing to provide a particular payment service or payment services (Regulation 12(1)(c)); or
 - c) the variation is desirable to protect the interests of consumers (Regulation 12(1)(d)).
4. Regulation 12(3) of the 2017 PSRs allows such a variation to take effect immediately (or on a specified date) only if the Authority, having regard to the ground on which it is exercising its power, reasonably considers that it is necessary for the variation to take effect immediately (or on that date).
5. Regulation 6 of the 2017 PSRs sets out the Conditions for Authorisation, which include:
 - a) The applicant must satisfy the Authority that, taking into account the need to ensure the sound and prudent conduct of the affairs of the institution, it has—
 - i. robust governance arrangements for its payment service business, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility (Regulation 6(6)(a));
 - ii. effective procedures to identify, manage, monitor and report any risks to which it might be exposed (Regulation 6(6)(b)); and
 - iii. adequate internal control mechanisms, including sound administrative, risk management and accounting procedures (Regulation 6(6)(c)),

which are comprehensive and proportionate to the nature, scale and complexity of the payment services to be provided by the institution.

- b) The applicant must satisfy the Authority that the directors and persons responsible for the management of the institution and, where relevant, the persons responsible for the management of payment services, are of good repute (Regulation 6(7)(b));
6. Regulation 37 of the 2017 PSRs sets out an authorised payment institution's duty to notify the Authority without undue delay where it becomes apparent to that authorised payment institution that there is, or is likely to be, a significant change in circumstances which is relevant to its fulfilment of any of the conditions set out in Regulation 6(4) to (9) (Conditions for Authorisation). The 2009 PSRs has corresponding provisions in Regulations 6(5), 6(6) and 32.
7. Section 391 of the Act, as applied by paragraph 10 of Schedule 6 to the 2017 PSRs, 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) The [Authority] may not publish information under this section if, in its opinion, publication of the information would be-
 - (a) unfair to the person with respect to whom the action was taken or proposed to be taken,
 - (b) prejudicial to the interests of consumers, or
 - (c) detrimental to the suitability of the UK financial system.
- (7) Information is to be published under this section in such manner as the [Authority] considers appropriate.
- (8) For the purposes of determining when a supervisory notice takes effect, a matter to which the notice relates is open to review if-
 - (a) the period during which any person may refer the matter to the Tribunal is still running;
 - (b) the matter has been referred to the Tribunal but has not been dealt with;
 - (c) the matter has been referred to the Tribunal and dealt with but the period during which an appeal may be brought against the Tribunal's decision is still running; or
 - (d) such an appeal has been brought but has not been determined."

RELEVANT HANDBOOK PROVISIONS

8. The Authority's policy in relation to its enforcement powers is set out in the Enforcement Guide (EG), certain provisions of which are summarised below.
9. EG 19.20 outlines the Authority's approach to enforcing the provisions of the 2009 PSRs and the 2017 PSRs. EG 19.20.5 provides that the 2017 PSRs, for the most part, mirror the Authority's investigative, sanctioning and regulatory powers under the Act and that the Authority has decided to adopt procedures and policies in relation to the use of those powers akin to those it has under the Act.
10. The Authority considers that the powers under Regulation 12(1) of the 2017 PSRs are similar to those under sections 55J and 55L of the Act and that the provisions of EG 8 "Variation and cancellation of permission and imposition of requirements on the FCA's own initiative and intervention against incoming firms" are applicable.

Imposing requirements on the Authority's own initiative

11. EG 8.2.1 provides that the Authority will have regard to its statutory objectives and the range of regulatory tools that are available to it, when it considers how it should deal with a concern about a firm. The Authority will also have regard to: (1) the responsibilities of a firm's management to deal with concerns about the firm or about the way its business is being or has been run; and (2) the principle that a restriction imposed on a firm should be proportionate to the objectives the Authority is seeking to achieve.
12. EG 8.2.3 provides that the Authority may exercise its formal powers under section 55J or 55L of the Act, where the Authority has serious concerns about a firm, or about the way its business is being or has been conducted.
13. EG 8.2.6 sets out a non-exhaustive list of examples of circumstances which might lead the Authority to consider varying a firm's authorisation on the basis of serious concerns about the firm's business. These include circumstances where the firm appears not to be fit and proper to carry on regulated activities because it has put itself at risk of being used for the purposes of financial crime or otherwise involved in such crime (EG 8.2.6(1)(b)(i)) or where the firm has breached requirements regarding disclosure (EG 8.2.6(1)(b)(iii)).

Use of the own-initiative powers in urgent cases

14. 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 variation or requirement to take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative powers.
15. EG 8.3.2 provides that the circumstances in which the Authority will consider exercising its own initiative power as a matter of urgency, include where the information available to it indicates serious concerns about the firm or its business that need to be addressed immediately (EG 8.3.2(1)).
16. EG 8.3.3 sets out a non-exhaustive list of situations in which the Authority will consider in exercising its own-initiative power as a matter of urgency. EG 8.3.3(1)

suggests that the Authority may consider urgent own-initiative action if there is information indicating a significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests. EG 8.3.3(2) suggests that the Authority may consider using this power where it has received information that a firm's conduct has put it at risk of being used for the purposes of financial crime. EG 8.3.3(3) states that the Authority will consider using its urgent own initiative powers where a firm has submitted to the Authority inaccurate or misleading information so that that Authority is seriously concerned about the firm's ability to meet its regulatory obligations. EG 8.3.3(4) states that the Authority will consider using its urgent own initiative power where there are 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 (here, the "threshold conditions" equate to the Conditions for Authorisation set out the 2009 PSRs and the 2017 PSRs, as applicable).

17. EG 8.3.4 states that the Authority will consider the full circumstances of each case when it decides whether an urgent imposition of a requirement is appropriate and sets out a non-exhaustive list of factors which will determine whether the urgent exercise of the Authority's own-initiative power is an appropriate response to serious concerns, including: the nature of any false or misleading information, including where the information relates to the firm's potential involvement in financial crime (EG 8.3.4(3)) 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 (EG 8.3.4(4)); the risk the firm has been or may be used to facilitate financial crime (EG 8.3.4(6)); the risk that the firm's conduct or business presents to the financial system and to confidence in the financial system (EG 8.3.4(7)); and the impact which the use of the Authority's own-initiative powers will have on the firm's business and on its consumers (EG 8.3.4(9)).

ANNEX B

REPRESENTATIONS

1. A summary of the Firm's key representations (in italics), and the Authority's conclusions in respect of them, is set out below.

Changes to the Firm's management, control and business

2. *The Firm has been a wholly owned subsidiary of Firm A, a well-established company publicly listed on the Hong Kong stock exchange, since 21 March 2018. The matters relied upon by the Authority substantively relate to the operation of the Firm a considerable time prior to its acquisition by Firm A, since which time it has been under new management and control and has moved out of the cash remittal business into providing cross-border payment services online.*
3. *Mr A had stepped down as the sole director of the Firm in April 2017, before its acquisition by Firm A. Mr B was appointed to replace him on a temporary basis, and he remained a director when Mr C, a professional compliance consultant, was also appointed as a director later that month. Accordingly, any concerns relating to Mr A cannot be attributed to the Firm after it took steps to replace him with a professional compliance consultant.*
4. *As part of the acquisition of the Firm by Firm A, the understanding was that Mr B (the previous sole shareholder of the Firm) and Mr C would remain directors for the immediate future, to assist the transition and to help Firm A to establish its presence in the cross-border payments business. By July 2020, Mr B and Mr C were not developing the business in the way that it was hoped that they would, so after Mr C ceased being a director of the Firm on 8 July 2020, Ms D was appointed as a director of the Firm on 20 July 2020. She is also the Firm's Money Laundering Reporting Officer and is an established foreign exchange compliance and AML specialist of good repute.*
5. *Mr B was removed as a director of the Firm, and from his role in the control of the Firm, on 28 January 2021. Since then, Ms D has been the Firm's sole director. Mr B had not been involved in the day-to-day operation of the Firm since becoming a director in April 2017, so since her appointment, Ms D has had sole day-to-day control of the Firm.*
6. *The Firm has been under a reorganisation plan since Ms D's appointment. This has involved the outsourcing of its AML training to an external provider and retraining all staff, and signing agreements with various companies in respect of an online payments platform, an online checking service and the provision of information technology. The Firm's governance arrangements, and procedures to manage, monitor and report risks have all changed, and with the departure of Mr B as a director, the last link with the past has been removed. The facts and matters set out in the First Supervisory Notice relate to the conduct of a business under a radically different management and control and method of operation, and do not support a conclusion that the Firm currently does not meet, or is unlikely to continue to meet, the Conditions for Authorisation.*
7. The Authority does not agree that the changes to the Firm's management, control and business mean that its concerns with the Firm's conduct relate only to historic matters and that it can be satisfied that the Firm is meeting, and is likely to continue to meet, the Conditions for Authorisation. The reasons for the action taken by the Authority, as set out in the First Supervisory Notice and this Second Supervisory Notice, relate to

the conduct of the Firm both before and after its acquisition by Firm A. In particular, since it was acquired by Firm A, the Firm was made the subject of cash forfeiture proceedings in September 2019, the Information was served on the Firm as part of those proceedings and it was determined by the Court in March 2020 that over £1.19 million seized from the Firm represented the proceeds of crime. Each of these matters constituted a significant change of circumstances which was relevant to the Firm's fulfilment of the Conditions for Authorisation, but the Firm did not disclose any of them to the Authority, including after Ms D was appointed as a director, and has not provided any good reason for its non-disclosures.

8. In addition, Mr B, who was the sole shareholder of the Firm and a director of VS1 at the time of the June 2016 search and seizure, and was referred to in the Information, remained a director of the Firm following its acquisition by Firm A, and was only removed as a director in light of the Firm receiving the First Supervisory Notice. Although the Firm submits that Mr B has not been involved in its day-to-day operations, Firm A's annual report refers to him being responsible for the Firm's management and operations. This suggests that Mr B was involved in the reorganisation of the Firm since July 2020 and the Authority considers it is clear that, prior to the issue of the First Supervisory Notice, the Firm had not treated the issues arising from the events of June 2016 with sufficient seriousness.
9. Further, it appears from the Firm's representations or from documents provided as attachments to the Firm's representations, that there have been recent developments which the Authority was unaware of and which the Firm ought to have notified to the Authority, including the changes to its business model and that the Firm has, or has reached an agreement so that it will shortly have, a new qualifying controller to which the Firm appears to have outsourced important management functions. The fact that the Firm did not inform the Authority of these matters undermines its submission that under its current ownership and director, it now has a radically different method of operation and can be relied upon to comply with its regulatory obligations.
10. The Firm's governance systems and controls allowed the many questionable transactions detailed in the Information to go ahead and failed to ensure that appropriate disclosures were made to the Authority. The Authority notes the Firm's submission that, since July 2020, its governance arrangements and procedures to manage, monitor and report risks have all changed. However, the Firm has not provided the Authority with proper evidence of its new systems and controls, and how they will interact with its new online-only business model that it seeks to operate. It is also not clear to the Authority who is making the ultimate decisions about the hiring and firing of directors, which is of particular concern given the allegation in the Information that the Firm was controlled by a "shadow director". Given the seriousness of the Firm's past conduct and non-disclosures, the Authority is not satisfied that it is now run in a sound and prudent manner, and no longer presents a risk to consumers or to trust in the payment services system.

The Authority's knowledge of the relevant matters

11. *As a result of the Firm's 8 March 2017 response to an enquiry from the Authority, the matters set out in the First Supervisory Notice, which all relate to the events of June 2016, were materially within the knowledge of the Authority at the time it confirmed it had no objection to the Firm's acquisition by Firm A on 28 March 2018. The Authority did not follow up the Firm's response or otherwise suggest that it was deficient. Firm A was therefore entitled to expect, when the Authority approved the change in control, that the Authority would not remove the Firm's authorisation to operate as an API by*

reason of the prior conduct of the Firm that was within the Authority's knowledge at the time.

12. The Authority was not aware of all the matters set out in the First Supervisory Notice at the time the Firm was acquired by Firm A as, at that point, the MPS had not initiated the cash forfeiture proceedings and neither the Information nor the Order had been produced. The Firm's non-disclosure of these matters occurred after it had been acquired by Firm A. The fact that the Authority did not follow-up with the Firm in respect of the Firm's 8 March 2017 response does not detract from the Authority's concerns about the Firm and its non-disclosures. The Authority also notes that it was not informed by the Firm of Mr A's arrest at any point, even after it contacted the Firm in March 2017.
13. Further, in considering the change in control application, the Authority was only assessing the suitability of Firm A. Its approval of the change in control did not mean that the Authority did not have any concerns with the Firm at that time, and there was no basis for Firm A to conclude that the Authority would not take action against the Firm for its prior conduct, if it considered it was appropriate to do so.

The events of June 2016

14. *The execution of the search warrant in June 2016 does not mean that there was any suspicion of wrongdoing by the Firm. Rather, its purpose was to enable a criminal investigation to establish whether or not any suspicions were in fact made out. Ultimately, in December 2020, the investigation was discontinued without charges, which shows that the suspicions were not made out in this case. Mr A was one of those arrested, interviewed and notified that no further action would be taken. Accordingly, any inference adverse to the Firm or him, that might be made by reason of being the subject of a search warrant or arrest, is undermined by the MPS's decision to discontinue proceedings.*
15. *The disclosure of the events of June 2016 was a matter for the management and control of the Firm at the time. The matter was dealt with by way of the 8 March 2017 response to the Authority's enquiry. Any deficiency in that response should not reflect on the management and control of the Firm in 2021.*
16. The Authority considers that the search and seizure of cash by the MPS in June 2016 was evidently a significant change of circumstances which was relevant to the Firm's fulfilment of the Conditions for Authorisation and that it should have been apparent to the Firm that these events needed to be disclosed to the Authority. This is also the case in respect of the arrest of Mr A, given its potential to impact on the reputation of him and the Firm, and because of its relevance to his fitness and propriety.
17. The MPS investigation did lead to charges against certain individuals, including a director of VS1, of which firm Mr B is a director, and with which the Firm shared business premises at the time the search warrant was executed. Further, it led to the forfeiture of cash transferred through the Firm, so the Authority does not agree with any suggestion that the investigation was ill-founded. In addition, the ultimate discontinuance of the investigation does not affect the fact that the Firm was required to disclose to the Authority the various matters particularised in the First Supervisory Notice (and repeated in this Second Supervisory Notice).
18. The Authority does not consider that the March 2017 correspondence remedies the Firm's initial failure to notify. On the contrary, the correspondence should have made

the Firm realise that the Authority wished to be informed of such matters, yet it still failed to notify the Authority of the cash forfeiture proceedings, the Information or the Order, notwithstanding the changes made to its management and control.

The cash forfeiture proceedings

19. *The cash seized from the Firm in June 2016 comprised monies of three distinct origins: (i) foreign exchange floats of approximately £107,700 belonging to the Firm; (ii) accrued fees of approximately £41,700 belonging to the Firm; and (iii) customer monies of approximately £1.191 million. Ultimately, the MPS did not pursue forfeiture of the monies belonging to the Firm, accepting in so doing that those monies were not the proceeds of crime. Had the Firm engaged in unlawful conduct, its accrued fees would constitute recoverable property which could be forfeit under Part 5 of POCA. The fact that the MPS did not pursue forfeiture over the Firm's monies is consistent with the absence of any evidence of wrongdoing on the part of the Firm.*
20. *All parties recognised that the customer monies were not and never had been the property of the Firm, and that any challenge to seizure was a matter between the individual customers and the MPS, with the Firm not having any standing in the matter.*
21. *As the Firm consented to the making of an order over the customer monies, there was no trial of the matter and the Court did not make any determination on the merits in respect of the cash. To the extent that any conclusion could be drawn from the conduct of the cash forfeiture proceedings, it is that there was no criminal conduct on the part of the Firm and it took no monies even suspecting them to be the proceeds of crime. It cannot be concluded that the customer monies were the proceeds of crime by reason merely of the customers not contesting their forfeiture, but rather that they took a negative view of the overall litigation risk, having regard to the sums involved and the likely costs.*
22. *The MPS's withdrawal of proceedings in respect of the Firm's property belies an assertion that the Order founds an inference of any misconduct on the part of the Firm. There was therefore not a significant change of circumstances which was relevant to the Firm's meeting the Conditions for Authorisation.*
23. The Authority acknowledges that the cash forfeiture proceedings did not establish wrongdoing against the Firm. However, this was not the purpose of the proceedings, which was instead to establish that the funds represented the proceeds of crime. In order for the Court to have granted the Order, it was required under POCA to be satisfied that the cash had been obtained through unlawful conduct and so represented "recoverable property". The fact that the customer monies were forfeited demonstrates that the Court was satisfied that these monies were obtained through unlawful conduct.
24. Any finding by a court that significant payments through a payment institution should be forfeited on the ground that they represent the proceeds of crime is a matter that requires notification to a regulator. It should therefore have been apparent to the Firm that the Order, like the cash forfeiture proceedings themselves, was a material change in circumstances relevant to its meeting the Conditions for Authorisation and which therefore was required to be disclosed to the Authority. Even if the Firm considered that its customers only refused to engage with the MPS because of the litigation risk, this was something that could have been explained to the Authority at the time, rather than failing to disclose the Order at all. Further, the Authority has not seen any evidence to support this contention and does not consider it credible. The very limited

engagement of customers with the MPS is highly suggestive that the funds were the proceeds of crime.

The Information

25. *The Information is not evidence of wrongdoing. In so far as the Information could properly be regarded as founding any allegation of impropriety against the Firm, that inference is contradicted by the return of the Firm's monies and the taking of no further action by the MPS.*
26. *The Information does not, properly understood, allege that the Firm was involved in facilitating serious criminality. Furthermore, there had been no material change in circumstances relevant to the Firm's meeting the Conditions for Authorisation, as the cash had been seized and detained on the basis that it was the proceeds of crime in 2016, a fact of which the Authority was aware from 3 March 2017 at the latest.*
27. *The allegation in the Information that the Firm was controlled by a "shadow director" linked to serious criminality was not proceeded with. Whatever the position was before Mr A's departure in April 2017, for the avoidance of doubt this alleged "shadow director" has had no involvement in the management of the Firm at any time since its acquisition by Firm A.*
28. The Information sets out the MPS's evidence that the cash seized from the Firm had been obtained through criminal conduct. It makes a number of serious allegations regarding the Firm, including that: it was involved in the transfer of criminal property outside of the UK to China and played a significant role in the laundering of funds from organised criminals; transactions conducted through the Firm had unusual features yet no Suspicious Activity Reports were filed; its fee structure and certain cash flows through the Firm's accounts, including to an overseas firm controlled by Mr B, made no commercial sense, other than in the context of underground banking; customer due diligence was not being carried out or was failing to deter suspicious activity; it appeared to be controlled by a "shadow director" who had been convicted of fraudulent trading and a variety of other offences; and it had engaged in tax evasion. The Authority therefore considers that the Information clearly alleges that the Firm was involved in facilitating serious criminality.
29. As such, the Firm's receipt of the Information was a material change in circumstances relevant to its meeting the Conditions for Authorisation. To comply with its regulatory obligations, the Firm should have disclosed the fact of the Information to the Authority, explained how the transactions had been allowed to happen (or why the MPS's allegations were inaccurate), and explained how it had updated its systems and controls to ensure that the same problems could not occur in future. The Firm's representations, however, suggest that the Firm does not recognise the seriousness of the past problems. Instead, the only action that the Firm appears to have taken in response to the cash forfeiture proceedings was to act to recover its own money. Accordingly, notwithstanding that the MPS has discontinued proceedings, the Authority remains concerned that the Firm may lack robust governance arrangements, effective procedures to identify, manage, monitor and report risk, or adequate internal control mechanisms, and it continues to appear to the Authority that the Firm does not meet, or is unlikely to continue to meet, the Conditions for Authorisation. Further, given the risk that the Firm facilitated serious criminality, the Authority considers that if the Firm was authorised to provide payment services it would undermine trust in the payments system.

30. The serious allegations in the Information regarding the “shadow director” ought to have been disclosed to the Authority, even if they were denied by the Firm, so that the Authority could reach its own judgment on the directors and management of the Firm.

The Firm’s 2018 application for authorisation

31. *The Firm’s 2018 application for authorisation under the 2017 PSRs was made by Mr B with the assistance of professional advisers. Mr B reasonably relied on those advisers in deciding that the events of June 2016 did not need to be disclosed because they were likely already to be in the knowledge of the Authority and they were not the subject of the application form. As in fact these matters already were in the Authority’s knowledge, in the light of the Firm’s response to the Authority’s enquiry in March 2017, this was not a material change in circumstances which needed to be disclosed. In any event, this decision, which was made around the time of the change in control, cannot reflect on the Firm under the control of Firm A and the management of Ms D.*
32. The Authority considers it is clear that the relevant matters ought to have been disclosed in the application, and the fact that the Authority was already aware of them does not alter that fact. Mr B’s discussions with a compliance consultant before submitting the application do not excuse the Firm’s failure to disclose the events of June 2016, in particular in circumstances where the Firm has failed to disclose many other material matters to the Authority, both before and after the change in control.