
NOTICE OF DECISION TO CANCEL

To: Found Estates – (“FE”)
Address: 64A Kay Street, Darwen, Lancashire, BB3 3EL
FRN: 797124
Dated: 16 January 2024

ACTION

1. For the reasons set out below and under regulation 60(3) of the MLR, the Authority has decided to cancel FE’s Registration.

REASONS FOR THE ACTION

2. FE failed to pay a charges due to the Authority. Therefore, the Authority may cancel FE’s Registration under the MLR in accordance with regulation 60(3)(a) of the MLR, on the basis of the condition in regulation 59(1)(c)(iii) (which concerns the payment of charges and to which regulation 60(3)(a) refers).

DEFINITIONS

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

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

“Annex 1 financial institution” has the meaning given in Regulation 55(2) of the MLR 2017;

“the Authority” means the Financial Conduct Authority;

“EG” means the Enforcement Guide;

"FE" means Found Estates;

"FE's Registration" means the registration by the Authority for FE as an Annex 1 financial institution under the MLR 2017;

"the MLR 2017" means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017; and

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

RELEVANT STATUTORY PROVISIONS

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

FACTS AND MATTERS RELIED ON

5. FE was registered by the Authority on 29 January 2018 as an Annex 1 financial institution.
6. FE has failed to pay charges totalling £2681.00 owed to the Authority consisting of the following invoices dated:
 - a. 9 August 2022 for £1112.00 in respect charges for the period from 1 April 2022 to 31 March 2023 which had been due for payment by 8 September 2022;
 - b. 18 August 2021 for £1050.00 in respect charges for the period from 1 April 2021 to 31 March 2022 which had been due for payment by 16 November 2021; and
 - c. 30 September 2020 for £519.00 in respect charges for the period from 1 April 2020 to 31 March 2021 which had been due for payment by 29 December 2020.
7. FE has also failed to respond adequately to the Authority's repeated requests that it pay the charges owed to the Authority.
8. By way of a Notice of Proposed Cancellation dated 24 November 2023, the Authority gave notice to FE that the Authority proposed to cancel FE's Registration. FE was given the opportunity to make representations to the Authority about the proposed action.
9. No representations have been received by the Authority from FE by the date specified in the Notice of Proposed Cancellation. An email bounce back was received 24 November 2023. The charges referred to in paragraph 6 remain unpaid. The Authority has therefore decided to cancel FE's Registration. The cancellation of FE's Registration takes effect on 16 February 2024.

PROCEDURAL MATTERS

10. This Notice is given to FE under Regulation 60(9)(b) of the MLR.

Decision maker

11. The decision which gave rise to the obligation to give this Notice was made by an Authority staff member under executive procedures.

The Tribunal

12. FE has the right to appeal the Authority's decision to cancel FE's Registration to the Tribunal. Under paragraph 2(2) of Schedule 3 to the Tribunal Procedure (Upper Tribunal) Rules 2008, FE has 28 days from the date on which this Notice is given to FE to refer the matter to the Tribunal.
13. An appeal to the Tribunal is made by way of a signed reference notice (Form FTC3) filed with a copy of this Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, Fifth Floor, Rolls Building, Fetter Lane, London EC4A 1NL (tel: 020 7612 9730; email: uttc@hmcts.gsi.gov.uk).
14. For further information on the Tribunal, FE should refer to the HM Courts and Tribunal Service website. Guidance on making an appeal to the Tribunal and the relevant form to complete (Form FTC3) can be accessed from the following link:

<https://www.gov.uk/government/collections/upper-tribunal-tax-and-chancery-chamber>
15. A copy of the Form FTC3 must also be sent to Misba Masood at the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN at the same time as filing an appeal with the Upper Tribunal.

Access to evidence

16. A schedule of the material upon which the Authority has relied in deciding to give FE this Notice is given with this Notice. If FE requires copies of the material listed, it should contact Misba Masood (see paragraph 18 below).

Confidentiality and publicity

17. This Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining advice on its contents).
18. The Authority may publish such information about the matter to which a Notice served under Regulation 60(9) relates as it considers appropriate. The information published may contain reference to the facts and matters contained in this Notice.

Authority Contacts

19. For more information concerning this matter generally, FE should contact Misba Masood at the Authority (direct line: 020 7066 0102).

Jeremy Parkinson
Executive Decision Maker

Decision made by an Authority member of staff under Executive Procedures

ANNEX

RELEVANT STATUTORY PROVISIONS

1. Regulation 55(1) of the MLR 2017 provides:

“The [Authority] may maintain a register of Annex I financial institutions.”

2. Regulation 55(6) of the MLR 2017 provides:

“The registers maintained by the registering authorities must include entries in any equivalent registers maintained under regulation 32 of the Money Laundering Regulations 2007 which were current immediately before the date that regulation was revoked.”

3. Regulation 59(1) of the MLR 2017 provides:

“Subject to regulation 58, the registering authority may refuse to register an applicant for registration in a register maintained under regulation 54 or 55 only if—

[...]

(c) the applicant has failed to pay [...]

(ii) a charge imposed by the authority under Part 11”.

4. Regulation 60(3) of the MLR 2017 provides:

“The registering authority may [...] cancel a person’s registration in a register maintained by it under regulation 54 or 55 if, at any time after registration—

(a) it appears to the authority that any of paragraphs (a) to (e) of regulation 59(1) apply;

[...].”

5. Regulation 60(8) of the MLR 2017 provides:

“Where the FCA is minded to suspend or cancel a person’s registration it must give that person notice—

(a) that it is so minded;

(b) if appropriate, the proposed period of the suspension;

(c) the reasons for being so minded; and

(d) the right to make representations to it within the period specified in the notice (which must not be less than 28 days).”

6. Regulation 60(9) of the MLR 2017 provides:

“The FCA must then decide, within a reasonable period, whether to suspend or cancel the person’s registration and it must give that person notice of—

- (a) its decision not to be suspend or cancel the person’s registration; or
- (b) the following matters-
 - i. the decision to suspend or cancel the person’s registration and, subject to paragraph 10, the date from which the suspension or cancellation takes effect;
 - ii. the period of the suspension;
 - iii. the reasons for its decision; and
 - iv. the right to appeal under regulation 93.”

OTHER RELEVANT REGULATORY PROVISIONS

7. The Authority’s policy in relation to exercising its enforcement powers is set out in EG, the relevant provisions of which are summarised below.
8. EG 19.14.7 provides that, in relation to the MLR 2017, the Authority has decided to adopt enforcement and decision making procedures, in relation to the use of its investigation and sanctioning powers, broadly akin to those it has under the Act. The types of circumstances in which the Authority will consider cancelling a firm’s Part 4A Permission under the Act include non-payment of Authority fees or repeated failures to pay Authority fees except under threat of Enforcement action (EG 8.5.2(5)).