

Bank of England

Prudential Regulation Authority

DECISION NOTICE

To: South Airdrie Credit Union Limited

Of: Community Centre, 6 Clark Street, Airdrie,
Lanarkshire, ML6 0LA, United Kingdom

Firm Reference Number: 213982

Date: 24 July 2024

ACTION

1. Further to the Warning Notice issued to South Airdrie Credit Union Limited on 5 March 2024, and for the reasons set out in Section A of this Notice and pursuant to section 55J(3) of the Financial Services and Markets Act 2000 (the "Act"), the Prudential Regulation Authority has decided to cancel the permission granted to South Airdrie Credit Union Limited pursuant to Part 4A of the Act.

PROCEDURAL MATTERS

2. The procedural matters set out in Section B are important.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

3. The relevant statutory and regulatory provisions are set out in Section C.

DEFINITIONS

The definitions below are used in this Notice:

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

"director" has the meaning specified by the Glossary Part of the PRA Rulebook

"the FCA" means the Financial Conduct Authority

"the firm" means South Airdrie Credit Union Limited

"the FSA" means the Financial Services Authority, which was the predecessor to the FCA

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“the FSCS” means the Financial Services Compensation Scheme

“the Notice” means this Decision Notice, including Section A, Section B and Section C

“Part 4A permission” means permission to conduct regulated activity given under Part 4A of the Act

“the PRA” means the Prudential Regulation Authority

“Threshold Conditions” means the conditions set out in Part 1E of Schedule 6 to the Act

“the Tribunal” means The Upper Tribunal, Tax and Chancery Chamber

Marcela Hashim

For and on behalf of the Prudential Regulation Authority
Manager, Credit Unions Team

SECTION A OF THE DECISION NOTICE ISSUED BY THE PRUDENTIAL REGULATION AUTHORITY TO THE FIRM ON 24 JULY 2024

SUMMARY OF REASONS

1. On the basis of the facts and matters described below, in the PRA's view the firm is failing to satisfy the PRA's threshold conditions, as set out in Part 1E, Schedule 6 to the Act, as it is failing to satisfy Threshold Condition 5C (Location of offices), Threshold Condition 5D (Business to be conducted in a prudent manner), Threshold Condition 5E (Suitability) and Threshold Condition 5F (Effective supervision)
2. In the opinion of the PRA:
 - 2.1 The firm no longer maintains any registered office and is failing to satisfy Threshold Condition 5C.
 - 2.2 The firm does not have any approved senior managers and, as far as the PRA is aware, the firm does not have any directors, officers, employees or other persons able to manage the firm's operations or ensure its compliance with regulatory requirements. As a result of the firm's lack of appropriate human resources, the PRA considers that the firm is failing to satisfy Threshold Conditions 5D, 5E and 5F.
3. Additionally, the firm has not conducted any regulated activity for a period of at least 12 months. To the knowledge of the PRA, the firm has not conducted regulated activity since around April 2006.
4. The PRA notes that the firm has applied for a voluntary cancellation of its permission but, for the reasons explained in paragraph 14, the PRA cannot be satisfied that the application is valid. In these circumstances, and for the reasons set out in paragraphs 15 to 27 below, the PRA therefore considers that it is reasonable and proportionate to cancel the firm's Part 4A permission, pursuant to section 55J of the Act.

FACTS AND MATTERS RELIED UPON

5. The firm was authorised on 2 July 2002 with permission under Part 4A of the Act to accept deposits. The firm was registered under the Industrial and Provident Societies Act 1965, by virtue of s1 of the Credit Union Act 1979. Sections 1 and 150(1) of the Cooperative and Community Benefit Societies Act 2014 provide that any society registered under the Industrial and Provident Societies Act 1965 is considered a registered society for the

Cooperative and Community Benefit Societies Act 2014. The firm is regulated by the PRA and FCA.

6. The firm offered to its members savings accounts and loans.

FSCS Default

7. On 5 April 2006, the firm was declared in default by the FSCS, following a referral from the FSA, on the grounds that it had ceased trading and the firm was balance-sheet insolvent. To the PRA's knowledge, the firm has not conducted any regulatory activity since around April 2006.
8. The firm had 468 depositors and, following its default, the FSCS paid those which were eligible for compensation.

Engagement with the PRA

9. Following the firm's default, and on the basis that the firm was understood to have stopped trading and therefore was no longer undertaking regulated activity, the FSA, and later on the FCA and PRA, asked the firm to apply for cancellation of the firm's Part 4A permission.
10. Between 2012 or 2013, the FSA made telephone contact with the firm's registered office (Community Centre, 6 Clark Street, Airdrie, ML6 0LA) but were informed by staff at the community centre that the firm no longer used the office. The firm has not provided details of, and the PRA is not otherwise aware of, any other head office or registered office.
11. The firm has no senior managers approved by the PRA.
12. Additionally, to the PRA's knowledge, the firm has no directors, officers, employees or other persons responsible for managing its affairs. The registered rules of the firm, available on the Mutuels Public Register, require a minimum of five directors to be appointed to the firm's board and also require the establishment of a credit committee and supervisory committee. To the PRA's knowledge, the firm does not have an appropriately constituted board of directors or governance committees to manage its affairs.
13. On 4 October 2022, the PRA and FCA received an application, purportedly on behalf of the firm, for a voluntary cancellation of the firm's Part 4A permission.

14. The application to cancel was submitted by a person who was approved to hold the CF1 (director) controlled function at the firm until March 2016, but is not approved as a senior manager, and who described their position in the application as “committee member”, “member/director” and “member/trustee”. The PRA has insufficient information as to the authority on which the application was made, noting the decision-making requirements in the firm’s registered rules and that, as detailed above, the firm does not have any senior manager, directors, or other officers managing its affairs. Accordingly, the PRA therefore cannot be satisfied that the application has been validly made.

FAILURES

Failure to Satisfy the Threshold Conditions

Location of Offices (Paragraph 5C of Part 1E of Schedule 6 to the Act)

15. Paragraph 5C(1) of Part 1E, Schedule 6 of the Act provides that, if a firm is a body corporate incorporated in the United Kingdom, its head office and registered office (if applicable) must be in the United Kingdom.
16. The firm is a body corporate incorporated in the UK and has failed to maintain a head office or registered office in the UK.

Business to be conducted in a prudent manner (Paragraph 5D of Part 1E of Schedule 6 to the Act)

17. Paragraph 5D(1) of Part 1E, Schedule 6 of the Act provides that the business of a firm must be conducted in a prudent manner. To satisfy this condition, a firm must have appropriate financial and non-financial resources. For the purposes of this requirement, “non-financial resources” includes the human resources that a firm has available (paragraph 1A, Part 1, Schedule 6 of the Act).
18. To have appropriate non-financial resources, a firm must satisfy (amongst others) the following conditions as set out in paragraph 5D (4), Part 1E of Schedule 6 of the Act:
- 18.1. the effectiveness with which the firm's business is managed must meet a reasonable standard of effectiveness, and
 - 18.2. the firm's non-financial resources must be sufficient to enable the firm to comply with:

- (i) requirements imposed or likely to be imposed on the firm by the PRA in the exercise of its functions, and
 - (ii) any other requirement in relation to whose contravention the PRA would be the appropriate regulator for the purpose of any provision of Part 14 of the Act.
- 19. The firm does not have in place appropriate non-financial resources. The firm has no approved senior managers, and, to the PRA's knowledge, the firm has no current directors, officers or employees to manage the firm's affairs.
- 20. The PRA considers that the firm lacks human resources adequate to satisfy the conditions set out in paragraph 18.1 to 18.2 above and therefore that the firm does not have appropriate non-financial resources and its business is not conducted in a prudent manner.

Suitability (Paragraph 5E of Part 1E of Schedule 6 to the Act)

- 21. Paragraph 5E (1), Part 1E of Schedule 6 of the Act provides that a firm must be a fit and proper person, having regards to the PRA's objectives. The matters relevant to determining whether a firm is fit and proper include whether those who manage firm's affairs have adequate skills and experience.
- 22. The firm is not a fit and proper person, having regard to the PRA's objectives, because it has no directors, officers, controller, employees and/or other persons to manage the firm or conduct regulated activity.

Effective Supervision (Paragraph 5F of Part 1E of Schedule 6 to the Act)

- 23. Paragraph 5F(1), Part 1E of Schedule 6 of the Act provides that a person must be capable of being effectively supervised by the PRA.
- 24. The firm is not capable of being effectively supervised by the PRA because it has no active directors which means that the PRA is unable to request or receive information from the firm.

Conclusion on Threshold Conditions

- 25. On the basis of the facts and matters described above, it appears to the PRA that the firm is failing to satisfy the conditions set out in paragraphs 5C (Location of offices), 5D (Business to be conducted in a prudent manner), 5E (Suitability) and 5F (Effective supervision) of the PRA's threshold conditions.

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Failure to carry on regulated activity

26. As set out above, it appears to the PRA that the firm has not carried on regulated activity by way of business in the UK since at least 6 April 2006. Given the firm's lack of non-financial resources and noting that an application to cancel the firm's permission was purportedly made on behalf of the firm, the PRA considers there to be no realistic prospect of the firm resuming regulated activity.

REGULATORY ACTION

27. On 5 March 2024 the PRA issued a Warning Notice to the firm and advised that the PRA was proposing to cancel the firm's Part 4A permission. The PRA gave the firm until 21 March to notify the PRA if it wished to make oral representations to the PRA on the contents of the Warning Notice and until 28 March 2024 to submit any written representations.

28. The PRA has received no response from the firm to the PRA's Warning Notice dated 5 March 2024.

29. For the reasons above, the PRA considers it appropriate to exercise its power under section 55J(3) of the Act because in the PRA's view the firm is failing to satisfy the threshold conditions for which the PRA is responsible and it has not conducted regulated activity for a period of at least 12 months.

ACTION

30. For the reasons given in this Notice, and pursuant to section 55 J(3) of the Act, the PRA has decided to cancel the firm's Part 4A permission.

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SECTION B OF THE DECISION NOTICE ISSUED BY THE PRUDENTIAL REGULATION AUTHORITY TO THE FIRM ON 24 JULY 2024

PROCEDURAL MATTERS

Decision-Maker

1. The decision which gave rise to the obligation to give this Notice was made by the PRA's Heads of Department and Managers Panel.
2. This Notice is given to the firm under section 55Z(2) of the Act, in accordance with section 388 of the Act, and is being served on the firm by post pursuant to the requirements of the Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001.
3. The following statutory rights are important.

The Upper Tribunal

4. The firm has the right to refer the matter to which this Notice relates to the Upper Tribunal. Under paragraph 2(2) of Schedule 3 of the Upper Tribunal Procedure Rules 2008, the firm has 28 days, from the date on which this Notice is given, to refer the matter to the Upper Tribunal.
5. A reference to the Upper Tribunal is made by way of a reference notice (Form FTC3) signed by or on behalf of the firm and filed with a copy of this Notice. The Upper Tribunal's address is:

Upper Tribunal (Tax and Chancery Chamber)
Fifth Floor
Rolls Building
Fetter Lane
London
EC4A 1NL
Tel: (020) 7612 9730
Email: uttc@justice.gov.uk

Further details are contained in "Making a Reference to the Upper Tribunal (Tax and Chancery Chamber)" which is available from the Tribunal website: [Refer a financial services case to the Upper Tribunal \(Tax and Chancery\) \(T400\) - GOV.UK \(www.gov.uk\)](#)

6. The firm should note that a copy of the reference notice (Form FTC3) must be sent to the PRA at the same time as the firm files a reference with the Upper Tribunal. A copy of the reference notice should be sent to **Marcela Hashim** at the PRA, 20 Moorgate, London, EC2R 6DA.

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Access to evidence

7. Section 394 of the Act applies to this Notice.
8. The firm has the right to access:
 - a) the material upon which the PRA has relied in taking the decision which gave rise to the obligation to give this notice; and
 - b) any secondary material which, in the opinion of the PRA, might undermine that decision.
9. The PRA considers that there is no secondary material which, in the opinion of the PRA, might undermine the PRA's decision.
10. The PRA is not required to allow access to any material that is a "protected item".

Confidentiality and publicity

11. Sections 391(1A), 391(4), 391(6A) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates.
12. Under those provisions, a person to whom this Notice is given or copied may not publish the Notice or any details concerning it unless the PRA has published the Notice or those details. The PRA must publish such information about the matter to which the Notice relates as it considers appropriate.

PRA contacts

13. For more information concerning this matter generally, the firm should contact Marcela Hashim at the PRA, 20 Moorgate, London EC2R 6DA.

SECTION C OF THE DECISION NOTICE ISSUED BY THE PRUDENTIAL REGULATION AUTHORITY TO THE FIRM ON 24 JULY 2024

RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. Under section 2B(2) of the Act, the PRA's general objective is: promoting the safety and soundness of PRA-authorised persons.
2. Section 55J(1) of the Act authorises the PRA to exercise its own-initiative variation or cancellation power under section 55J(3) where:
 - a) a firm is failing, or is likely to fail, to satisfy the threshold conditions for which the PRA is responsible;
 - b) the firm has failed, during a period of at least 12 months, to carry on a regulated activity to which the part 4A permission relates; or
 - c) it is desirable to exercise the power in order to advance the PRA's objectives.
3. Section 55J(3) of the Act provides that the PRA's power under section 55J is the power in the case of a PRA-authorised person, to vary the Part 4A permission in any of the ways mentioned in section 55I(1) or to cancel it.
4. Part 1E of Schedule 6 to the Act sets out the threshold conditions for which the PRA is responsible in relation to PRA-authorised persons.
5. Under paragraph 5C(1), Part 1E of Schedule 6 of the Act, if a person is a body corporate incorporated in the United Kingdom, the person's head office and registered office (if applicable) must be in the United Kingdom.
6. Paragraph 5D(1), Part 1E of Schedule 6 of the Act provides that the business of the person concerned must be conducted in a prudent manner. Paragraph 5D(2) provides that, to satisfy the condition in sub-paragraph (1), the person concerned must in particular have appropriate financial and non-financial resources.
7. Paragraph 5D(4), Part 1E of Schedule 6 of the Act sets out the conditions which the person concerned ("D") must satisfy to have appropriate non-financial resources. These conditions include (amongst others) that:
 - a) the effectiveness with which D's business is managed must meet a reasonable standard of effectiveness,
 - b) D's non-financial resources must be sufficient to enable D to comply with—
 - i. requirements imposed or likely to be imposed on D by the PRA in the exercise of its functions, and

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- ii. any other requirement in relation to whose contravention the PRA would be the appropriate regulator for the purpose of any provision of Part 14 of this Act.
8. Paragraph 1A(2) of Part I of Schedule 6 of the Act provides that, for the purposes of Schedule 6, the “non-financial resources” of a person include any systems, controls, plans or policies that the person maintains, any information that the person holds and the human resources that the person has available.
9. Under paragraph 5E(1), Part 1E of Schedule 6 of the Act, the person concerned must be a fit and proper person, having regard to the PRA’s objectives. The matters which are relevant in determining whether the person concerned satisfies this condition include whether those managing the persons affairs have adequate skills and experience (pursuant to paragraph 5E(2)(b)).
10. Paragraph 5F(1), Part 1E of Schedule 6 of the Act provides that the person concerned must be capable of being effectively supervised by the PRA. Under paragraph 5F(2), the matters relevant in determining whether the person concerned satisfies this condition include the way in which the person's business is organised.
11. The exercise of PRA’s own initiative power entails issue of warning notice followed by a decision notice under section 55Z(1) and 55Z(2) of the Act.
12. Under section 388 of the Act, a decision notice must—
 - 12.1. be in writing;
 - 12.2. give reasons for the proposed action;
 - 12.3. state whether section 394 applies;
 - 12.4. if that section applies, describe its effect and state whether any secondary material exists to which the person concerned must be allowed access under it; and
 - 12.5. give indication of any right to have the matter referred to the Tribunal and the procedure on such a reference.
13. Section 388(2) provides that if the decision notice was preceded by a warning notice, the action to which the decision notice relates must be action under the same Part as the action proposed in the warning notice.
14. Section 391(4) FSMA obligates the PRA to publish information related to decision notice issued under s55Z(2) as it considers appropriate. However, before exercising its discretion under s391(4), the PRA must give regard to subsection (6A) which requires it to consider if publication of information would be-

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- a) unfair to the person with respect to whom the action was taken (or was proposed to be taken),
- b) prejudicial to the safety and soundness of PRA-authorised persons, or
- c) in a case where section 2C applies, prejudicial to securing the appropriate degree of protection for policyholders.