Chapter 6

Applications to vary and cancel Part 4A permission and to impose, vary or cancel requirements
6.4 Applications for cancellation of permission

6.4.1 [deleted]

6.4.1A Under section 55H(3) of the Act (Variation by FCA at request of authorised person), if an FCA-authorised person applies to the FCA, the FCA may cancel its Part 4A permission. Cancellation applies to a firm's entire Part 4A permission, that is to every activity and every specified investment and not to the individual elements such as specified investments. Changes to the individual elements of a permission would require a variation.

6.4.2 [deleted]

6.4.2A Under section 55H(4) of the Act, the FCA may refuse an application from a firm to cancel its Part 4A permission if it considers that it is desirable to do so in order to advance any of its operational objectives.

6.4.3 (1) A firm may apply to the relevant regulator to cancel its Part 4A permission before it has ceased carrying on all regulated activities. However, where a firm makes a formal application for cancellation of its permission when it has not yet ceased carrying on regulated activities, the relevant regulator will expect the firm:

(a) to cease those regulated activities within the short term (normally no more than six months from the date of application for cancellation); and

(b) to have formal plans to cease its regulated activities in an orderly manner.

(2) Firms should note, however, that the relevant regulator will not grant an application for cancellation of Part 4A permission until the firm can demonstrate that it has ceased carrying on all regulated activities (SUP 6.4.19 G).

(3) The relevant regulator may apply additional procedures or require additional information, as if the firm had entered into a long term wind down of business (see SUP 6 Annex 4), if it considers it appropriate to the circumstances of the firm.

6.4.4 Additional guidance for a firm carrying on insurance business, accepting deposits, operating a dormant account fund or which holds client money or
customer’s assets is given in SUP 6 Annex 4. As noted in SUP 6.2.9 G, it will usually be appropriate for a firm to apply for variation of its Part 4A permission and/or the imposition, variation or cancellation of a requirement while winding down (running off) its regulated activities and before applying to cancel its Part 4A permission.

The application for cancellation of permission

6.4.5

(1) Subject to (1A), a firm other than a credit union wishing to cancel its Part 4A permission, must apply online at the appropriate regulator website using the form specified on the online notification and application system.

(1A) An FCA-authorised person wishing to cancel its Part 4A permission which covers only credit-related regulated activities must submit any form, notice or application by using the form in SUP 6 Annex 6 and submitting it in the way set out in SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification).

(2) [deleted]

(3) [deleted]

(4) Until the application has been determined, a firm which submits an application for cancellation of Part 4A permission must inform the relevant regulator of any significant change to the information given in the application immediately it becomes aware of the change.

(5) Where a firm is obliged to submit any form, notice or application online under (1), if the online notification and application system fails and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a firm must submit any form, notice or application by using the form in SUP 6 Annex 6D and submitting it in the way set out in SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification).

6.4.5A

(1) If the online notification and application system fails and online submission is unavailable for 24 hours or more, the relevant regulator will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 6.4.5 D (5) and SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification) should be used.

(2) Where SUP 6.4.5 D (5) applies to a firm, GEN 1.3.2 R (Emergency) does not apply.

6.4.6

(1) In addition to applying for cancellation of Part 4A permission in accordance with SUP 6.4.5 D, a firm may discuss prospective cancellations with its supervisory contact at the appropriate regulator. Alternatively a firm can contact the Contact Centre on 0300 500 0597.

(2) To contact the Cancellations Team:

(a) write to: Cancellations Team, The Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN; or; or
When an application is received, the relevant regulator will send the firm a written acknowledgement. The firm will be required to provide information which, in the opinion of the relevant regulator, is necessary for it to determine whether to grant or refuse the application for cancellation of Part 4A permission.

### Information to be supplied to the relevant regulator as part of the application for cancellation of permission

A firm will be expected to demonstrate to the relevant regulator that it has ceased carrying on regulated activities. The relevant regulator may require, as part of the application, a report from the firm that includes, but is not limited to, the confirmations referred to in § SUP 6.4.12 G (as appropriate to the firm’s business). The relevant regulator may also require additional information to be submitted with the report including, in some cases, confirmation or verification from a professional adviser on certain matters to supplement the report (see § SUP 6.4.15 G).

(1) If a firm is subject to the complaints rules in DISP, the FCA may request confirmation from the firm that there are no unresolved, unsatisfied or undischarged complaints against the firm from a customer of the firm.

(2) If there are unresolved or undischarged complaints against a firm from a customer of the firm, the FCA may request confirmation, as appropriate, of the steps (if any) which have been taken under the firm’s complaints procedures and the amount of compensation claimed. The FCA may also request an explanation of the arrangements made for the future consideration of such complaints.

If the firm is carrying on designated investment business with retail clients, the FCA may request confirmation that the firm has written, or intends to write, to all retail clients with, or for whom, the firm has conducted regulated activities within a certain period.

### Confirmations and resolutions

The relevant regulator will usually require the report in § SUP 6.4.9 G to be signed by a director or other officer with authority to bind the firm. It may include confirmations from the firm that, in relation to business carried on under its Part 4A permission, it has:
(1) ceased carrying on all regulated activities;

(2) properly disbursed funds in its client bank accounts and closed those accounts;

(3) discharged all insurance or deposit liabilities; and

(4) properly transferred all investments, title documents and other property that it held on behalf of clients.

6.4.13 The relevant regulator may also require a resolution from the firm’s governing body, for example to support the application for cancellation of permission, expressed to be irrevocable, and to give the signatory the authority to sign the formal report to the relevant regulator.

6.4.14 Under section 398 of the Act (Misleading the FCA or PRA: residual cases), it is an offence, in purported compliance with a requirement imposed by or under the Act (including the directions in §SUP 6.4.5 D), for a person to knowingly or recklessly give the regulator information that is false or misleading. If necessary, a firm should take appropriate professional advice when supplying information required by the regulator(s). An insurer, for example, may ask an actuary to check assumptions in respect of future claims made under contracts of insurance.

Reports from professionals

6.4.15 The relevant regulator may require additional information, including professional advice, to supplement or support the report in §SUP 6.4.9 G where it considers this appropriate. Examples of reports that may be requested by the relevant regulator include, but are not limited to those detailed in §SUP 6.4.16 G.

6.4.16 Types of reports. See §SUP 6.4.15 G

<table>
<thead>
<tr>
<th>Category of firm</th>
<th>Type of report</th>
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<tbody>
<tr>
<td>a bank or building society</td>
<td>• an audited balance sheet which confirms that, in the auditor's opinion, the firm has no remaining deposit liabilities to customers;</td>
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<td></td>
<td>• a report from auditors or reporting accountants;</td>
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<tr>
<td>a securities and futures firm</td>
<td>• a report from auditors or reporting accountants</td>
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<tr>
<td>an insurer</td>
<td>• an audited closing balance sheet which demonstrates that the firm has no insurance liabilities to policyholders;</td>
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<tr>
<td></td>
<td>• a report from the auditors or reporting accountants; and</td>
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<tr>
<td></td>
<td>• in some cases, an actuarial opinion as to the likelihood of any remaining liabilities to policyholders.</td>
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If a firm is transferring its business, the relevant regulator may require a professional opinion in respect of certain aspects of the transfer. For example, the relevant regulator may require a legal opinion on the validity of arrangements to transfer regulated activities, client money, client deposits, custody assets or any other property belonging to clients, to another authorised person. Alternatively, an auditor or reporting accountant may be requested to verify that a transfer has been properly accounted for in the firm's books and records. Transfers of insurance and banking business are subject to statutory requirements (see Section 18).

Approved persons

(1) A firm which is applying for cancellation of Part 4A permission and which is not otherwise authorised by, or under, the Act should, at the same time:

(a) comply with:

(i) [Section 10A.14.8R](for a firm that is not an SMCR firm);
(ii) [Section 10C.14.5R](for an SMCR firm); or
(iii) the corresponding PRA requirements; and

(b) notify the the FCA or PRA of persons ceasing to perform controlled functions specified by that regulator.

These forms should give the effective date of withdrawal, if known (see Section 10A and Section 10C (FCA's regimes for approved persons)).

When will the relevant regulator grant an application for cancellation of permission?

The relevant regulator will usually not cancel a firm’s Part 4A permission until the firm can demonstrate that, in relation to business carried on under that permission, it has, as appropriate:

(1) ceased carrying on regulated activities or fully run off or transferred all insurance liabilities;

(2) repaid all client money and client deposits;

(3) discharged custody assets and any other property belonging to clients; and

(4) discharged, satisfied or resolved complaints against the firm.

If it is not possible for a firm to demonstrate a relevant matter referred to in Section 6.4.19, for example, depositors are uncontactable, the firm will be expected to have satisfied the relevant regulator that it has made adequate provisions for discharging any liabilities to clients which do not involve the firm carrying on regulated activities.

Before the relevant regulator cancels a firm’s Part 4A permission, the firm will be expected to be able to demonstrate that it has ceased or transferred all regulated activities under that permission. For example, the firm may be asked to provide evidence that a transfer of business (including, where
relevant, any client money, customer assets or deposits or insurance liabilities) is complete. As noted in SUP 6.4.9 G, the relevant regulator may require the firm to confirm this by providing a report, in a form specified by the relevant regulator:

(1) as part of the application for cancellation of permission, if the firm has ceased carrying on all regulated activities under its Part 4A permission at the time of application (see SUP 6.4.9 G); or

(2) after the application but before its determination, if the firm has not ceased carrying on regulated activities under its Part 4A permission at the time of application.

In deciding whether to cancel a firm’s Part 4A permission, the relevant regulator will take into account all relevant factors in relation to business carried on under that permission, including whether:

(1) there are unresolved, unsatisfied or undischarged complaints against the firm from any of its customers;

(2) the firm has complied with CASS 5.5.80 R and CASS 7.11.34R (Client money: discharge of fiduciary duty) and CASS 7.11.50 R (Client money: allocated but unclaimed client money) if it has ceased to hold client money; these rules apply to both repayment and transfer to a third party;

(3) the firm has ceased to hold or control custody assets in accordance with instructions received from clients and COBS 6.1.7 R or article 49 of the MiFID Org Regulation (see COBS 6.1ZA.9EU) (Information concerning safeguarding of designated investments belonging to clients and client money);

(4) the firm has repaid all client deposits, if it is ceasing to carry on regulated activities including accepting deposits;

(5) the relevant regulator or another regulator has commenced an investigation against the firm or continuing enforcement action against the firm;

(6) there are any matters affecting the firm which should be investigated before a decision on whether the firm should have its Part 4A permission cancelled by the relevant regulator or be disciplined;

(7) the firm has unsettled or unexpired liabilities to consumers, for example, outstanding contracts (such as deposits or insurance liabilities);

(8) the firm has settled all its debts to the appropriate regulator; and

(9) the factors set out in SUP 6.19 G apply.

The FCA and the PRA enforcement and investigation powers against a former authorised person

If an application for cancellation of a firm’s Part 4A permission has been granted and a firm’s status as an authorised person has been withdrawn (see
it will remain subject to certain investigative and enforcement powers as a former authorised person. These include:

1. information gathering and investigation powers in [Part XI](#) of the Act (Investigation gathering and investigations) (see [EG 3](#) (Use of information gathering and investigation powers));

2. powers to apply to court for injunctions and restitution orders in [Part XXV](#) of the Act (Injunctions and restitution) (see [EG 10](#) (Injunctions) and [EG 11](#) (Restitution and redress));

3. powers in [Part XXIV](#) of the Act (Insolvency) to petition for administration orders or winding up orders against companies or insolvent partnerships, or bankruptcy orders (or in Scotland sequestration awards) against individuals (see [EG 13](#) (Insolvency));

4. powers in [Part XXVII](#) of the Act (Offences) to prosecute offences under the Act and other specified provisions (see [EG 12](#) (Prosecution of criminal offences)).

However, the following powers may not be used against former authorised persons:

1. powers to take disciplinary action against firms by publishing statements of misconduct under [section 205](#) of the Act (Public censure) or imposing financial penalties under [section 206](#) of the Act (Financial penalties); and

2. the power to require firms to make restitution under [section 384](#) of the Act (Power of FCA or PRA to require restitution).

Consequently, the relevant regulator considers that it will have good reason not to grant a firm’s application for cancellation of permission where:

1. the FCA and/or the PRA proposes to exercise any of the powers described in [SUP 6.4.24](#); or

2. the FCA and/or the PRA has already begun disciplinary and/or restitution proceedings against the firm by exercising either or both of these powers against the firm.

The FCA’s use of those powers is outlined in [DEPP 6](#) (Penalties).

How long will an application take?

1. Under section 55V(1) of the Act (Determination of applications), the relevant regulator has six months to consider a completed application.

2. If the relevant regulator receives an application which is incomplete, that is, where information or a document required as part of the application is not provided, section 55V(2) of the Act requires the relevant regulator to determine the incomplete application within 12 months of the initial receipt of the application.
(3) Within these time limits, however, the length of the process will relate directly to the complexity of cancellation requested and whether the firm has fully wound down (run off) its activities at the time it applies.

6.4.27A The FCA publishes standard response times on its website setting out how long the application process is expected to take in practice. From time to time, the FCA also publishes its performance against these times.

How will the relevant regulator make the decision?

6.4.28 A decision to grant an application for cancellation of permission will be taken by appropriately experienced staff at the relevant regulator. Where, however, the staff dealing with the application recommend that a firm’s application for cancellation of Part 4A permission be refused, the decision will be subject to the regulator’s formal decision making process.

6.4.29 See DEPP for guidance on the FCA’s decision making procedures, including the procedures it will follow if it proposes to refuse an application for cancellation of Part 4A permission.