



**Financial Conduct Authority**  
25 The North Colonnade  
Canary Wharf  
London  
E14 5HS

Tel: +44 (0)20 7066 1000  
Fax: +44 (0)20 7066 1099  
www.fca.org.uk

8 December 2016

Ref: **<FRN>**

This message has also been sent by email to **<email address>**.

Dear CEO,

### **The FCA's expectations of firms that administer Debt Management Plans (DMPs)**

I am writing to you as CEO of a firm that administers DMPs. I am doing so because we are finding examples of non-compliance with our requirements relating to the administration of DMPs. Specifically, we have observed failures by debt management firms to:

- review a DMP at least annually;
- maintain contact with customers;
- terminate their involvement in administering a DMP when it would be appropriate to do so;
- pay the customer as soon as is possible any client money received after a DMP has ceased.

We are concerned at these findings because it places consumers at increased risk. I am writing to all firms operating in this sector to highlight our concern at what we are finding and to remind them of the requirements that they must meet on an ongoing basis. We take the failure to comply with any of these requirements seriously and non-compliance will lead us to take appropriate action.

### **Administering DMPs and annual reviews**

As you know, your firm is required to maintain contact with the customer and regularly monitor and review their financial position and circumstances. Where your firm administers a DMP it must ensure that the customer's DMP is reviewed each year (or as soon as it becomes aware of a material change in the circumstances of the customer). Complying with these rules should help your firm ensure that customers continue to receive appropriate advice that has regard to their best interests, that their debt solution continues to be suitable to their

individual needs and that information provided to lenders about their customers is accurate and realistic.

In carrying out a review of the DMP a firm must:

- carry out a reasonable and reliable assessment of the customer's financial position (including their income, capital and expenditure), personal circumstances and any other relevant factors before giving any advice or make any recommendations; and
- ensure that all advice given and action taken is appropriate to the customer's individual circumstances and has regard to their best interests; and
- following a review, inform the customer of the outcome of the reassessment.

If the outcome of your firm's reassessment is that it is appropriate for the DMP to continue, it must advise the customer appropriately (including advising on which solutions are available, why your firm has identified a DMP as suitable for the customer's needs and why each other available solution is either suitable or unsuitable).

Any advice given must be provided to the customer in a durable medium. Consequently, if your firm provides advice to the customer on the telephone it must then confirm that advice to the customer in a durable medium. If, following the review, your firm sends a financial statement to the customer's creditors, it must ensure it is accurate and realistic.

### **Unresponsive customers and terminating a DMP**

We have found that some firms have been allowing DMPs to continue for a number of years either without reviewing them or subjecting them to a limited review (for example, where a customer has not engaged in the review process). This creates a risk because a person's personal and financial circumstances most likely will change over time, and the more time that has elapsed since a customer last engaged in a review, the greater the risk that the information your firm holds about the customer is not reliable. For example, their council tax liabilities may have increased, they may have had a child or they may have received a pay rise.

If a customer fails to respond to requests for information and is uncooperative, your firm must take all reasonable steps to renew a dialogue and to encourage the customer to participate meaningfully in the review process. Unless your firm takes these steps it is likely to be difficult for it to demonstrate that it has met its obligations to maintain contact with the customer and to review their DMP.

Your firm is not permitted to simply carry out a "desk based" review involving no or only limited steps to refresh the information about the customer's financial circumstances, and relying on old information that the firm ought to know is liable to have become inaccurate.

We are aware that, for a number of customers, a firm may not be able to obtain up-to-date information from the customer to refresh its assessment, despite having taken all reasonable steps to do so. In these circumstances your firm should carefully consider the risk that the DMP may have become inappropriate to the customer's financial circumstances, which may be the case even if the customer is managing to maintain his/her DMP payments. If a customer

continues to be unresponsive, there may come a point when your firm's lack of confidence about the accuracy of the information it holds means it becomes sensible for it to consider bringing to an end its involvement in the DMP.

Our rules do not set out a set time limit or prescribed circumstances following which it will be appropriate for a firm to terminate its involvement in administering a DMP: the exact timing and circumstances of when such action is appropriate will be fact-specific.

Further, where following a review your firm concludes, or ought reasonably to conclude on the basis of the information available and having regard to the best interests of the customer, that the DMP is not, or is no longer, appropriate to the financial circumstances of the customer, your firm must terminate the DMP.

On those occasions where your firm either terminates a DMP or terminates its involvement in administering a DMP, we expect it to do so consistently with our requirements and your obligations to your customer. For example, your firm's communications to lenders or their representatives on behalf of its customers must be transparent and ensure the customers' interests are not adversely affected. Your firm should satisfy itself, and be able to demonstrate, that the way it deals with unresponsive customers is consistent with its obligations and treats customers fairly, for example considering whether it needs to amend its existing policies, systems and controls so they are appropriate.

### **Client money and terminating a DMP**

Some clients may continue to make payments even though your firm has stopped administering the DMP. If this occurs, any money received or held on behalf of a client is client money and needs to be held in compliance with our rules on client money.

### **Actions required by firms now**

Your firm must be able to evidence its compliance with the applicable regulatory requirements including that it has adequate staffing, expertise and systems and controls. Your firm will need to keep this under review as business practices change or the business itself may make changes, such as a substantial increase in customer contacts. Your firm will also need to consider the specific needs of particularly vulnerable consumers.

If you have any questions about the content of this letter, please contact Garry Hunter 020 7066 2518, Alex MacDermott 020 7066 0264 or James O'Connell 020 7066 0328.

Yours faithfully,

Jonathan Davidson  
Director of Supervision – Retail and Authorisations