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Ref: <IP Number>

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

Dear interim permission holder,

The FCA's expectations of debt management firms when customers or customer information are being transferred

We are aware that there has recently been an increase in the transfer of customers in the debt management market.

I am therefore writing to remind all relevant firms of our expectations of debt management firms that are buying or selling customer contracts or customer contact details.

You should consider the points we raise in this letter, and how you can demonstrate that you meet our expectations and rules in relation to any sale or purchase by your firm.

Our concern is to ensure that customers' interests are appropriately protected during a transfer and this letter sets out some of our key expectations.

Failure to comply with our expectations and rules may lead to us using our powers to impose requirements on the selling firm, the buying firm or both. It may also lead us to review whether you are meeting the Threshold Conditions, for example as part of our assessment of your application for authorisation, and could result in you losing interim permission or being refused authorisation.

As these are important areas of concern, we expect you to share this letter with your board, or equivalent, as we will take these matters into account when assessing your application for authorisation and supervising your firm.

This letter is not intended to be an exhaustive list of considerations relating to a transfer of customer contracts or contact details, as these will differ depending on the nature and circumstances of the transfer.

Transfers must be lawful and compliant with FCA rules and principles

We would remind you that you are required to ensure any transfer is lawful and in accordance with the Data Protection Act and the expectations of the Information Commissioners Office, details are available here: https://ico.org.uk/media/for-organisations/documents/2665/buying_and_selling_customer_databases.pdf. In particular, customer information should only be used for the purposes for which it was given, consumers should be aware who has their data and what it is being used for, including the fact that it may be passed to another firm.

In addition you must also ensure that you comply with our rules and principles. Under our rules in the Consumer Credit sourcebook (CONC) (CONC 8.3.2R, 8.3.4R and 8.3.7R) you should ensure all advice given and actions have regard to the customers' best interests; are based on reasonable and reliable assessments of the customers' financial position and circumstances; and advice is also provided in a durable medium (as laid out in the FCA Handbook).

Notifying the FCA of proposed sale or purchase

In accordance with Principle 11 (as explained in SUP 15.3.8G and SUP 15.3.9G) a firm must deal with its regulators in an open and cooperative way, and must disclose anything of which that regulator would reasonably expect notice. We therefore expect firms to inform us at an early stage, including providing us with at least 10 days working days' notice, of any proposed sale or purchase of customer lists or customer contracts.

Selling firms

In accordance with Principle 6, firms must treat customers fairly. We therefore expect firms to ensure their customers have a very clear view of the costs and benefits of the service provided and have a very clear view of the other options available to them, including free advice via the Money Advice Service. We therefore expect that any affected customers should be provided with a statement prior to the completion of the sale and before any transfer takes place. We expect this statement, to be sent to each affected customer, to include:

- the total amount that has been paid by the relevant customer to the firm
- the total amount still owing to creditors under the debt management plan
- the total amount the relevant customer has paid by way of fees and charges to the firm for its services
- the total amount of client money that the firm holds on trust for the relevant customer as at the date of the letter
- a statement notifying the relevant customer of the Money Advice Service and the free debt adjusting and counselling services that it offers, and
- in the case of a transfer of the customer's contract, where applicable, a statement explaining to the relevant customer that their consent or acceptance is needed in order for them to be bound by a contract to receive debt management services from the purchasing firm

Protecting client money

Firms are reminded that they hold client money as trustee and are responsible for the

protection of that money, including during a transfer, and firms must ensure that they are meeting their fiduciary duties in relation to client money.

Purchasing firms

In accordance with Principle 6, firms must treat customers fairly. We expect purchasing firms to ensure that all affected customers understand clearly the contractual options available to them.

We also expect purchasing firms to have adequate financial resources, including the ability to comply with prudential requirements as set out at CONC 10.

In addition, where the transfer includes a transfer of customer contracts you must:

- not require or take payment from a customer before you have entered into a contract with the customer for your services
- and should also provide each customer with a statement (that is clear, fair and not misleading) regarding the contractual options available to them following the transfer and, if it is proposed to vary or enter into a new contract with the customer, a copy of the proposed contract (new or as varied)

When you take on a new customer on a debt management plan you must:

- regularly monitor and review the financial position and circumstances of the customer and adapt the debt management plan to take into account relevant changes to the financial position and circumstances of the customer. Realistically, this can only be done if you have verified both the customer's outstanding balances and their current financial circumstances
- signpost customers to the Money Advice Service in your first communication with customers, and maintain a link on your website to the Money Advice Service website
- ensure that customers receive sufficient information about the available options identified as suitable for the customer's needs, and that you explain why you consider the available options are suitable and the other options unsuitable

In regard to each transfer, you should also ensure creditors are notified of the transfer.

You must also be able to evidence that our requirements set out in the FCA Handbook have been met and that you have adequate staffing, expertise and systems to provide a service to your customers that meets our expectations, as set out in CONC. This should take into account any immediate and substantial increase in customer numbers and the specific needs of any vulnerable consumers.

If you have any questions about the content of this letter, please contact me, Garry Hunter 020 7066 2518, Alex MacDermott 020 7066 0264 or Hilary Bourne 020 7066 5968.

Yours faithfully,

Jonathan Davidson
Director of Supervision – Retail and Authorisations