

---

**REVISED FIRST SUPERVISORY NOTICE**

---

**To:** **BDSwiss Holding Plc**

**Reference Number:** **607761**

**Address:** **Apostolou Andrea Street 11  
Hyper Town 5<sup>th</sup> Floor  
4007 Mesa Yeitonia  
Limassol  
Cyprus**

**Date:** **27 July 2021**

**1 ACTION**

- 1.1 On 12 July 2021, the Authority imposed requirements on BDSwiss Holding Plc ("the Firm") pursuant to section 55L(3) of the Act ("the Initial Requirements"). The Initial Requirements were notified to the Firm by a First Supervisory Notice dated 12 July 2021.
- 1.2 The Firm made oral and written representations to the Authority. In light of these representations, the Authority has decided to vary the Initial Requirements by amending certain of the deadlines for performing required actions.
- 1.3 Therefore, for the reasons given below and pursuant to section 55L(3)(b) of the Act, the Authority has decided vary the Initial Requirements and to impose the following requirements on BDSwiss Holding Plc ("the Firm") with immediate effect:
  - 1) The Firm must not conduct any regulated activities with, or in respect of, any client who is resident in the United Kingdom, except a) up to 2 August 2021 in respect of current clients; or b) as is necessary to comply with these requirements.


- 2) The Firm must not conduct, or cause to be conducted, any marketing activity to persons resident in the United Kingdom.
- 3) The Firm must take reasonable steps to ensure that any marketing activity which the Firm knows, or has reasonable cause to believe, promotes regulated financial services involving trading through the Firm is withdrawn.
- 4) The Firm must display, and continue to display, on all websites used by it in the course of providing regulated activities, including but not limited to [www.eu.bdswiss.com](http://www.eu.bdswiss.com), [www.eu.swissmarkets.com](http://www.eu.swissmarkets.com) and [www.eu.bdstrading.com](http://www.eu.bdstrading.com), a notice of such size and prominence that all viewers of the website will inevitably see and be able to read it, which states: "Firms within the BDSwiss Group, trading as BDSwiss, Swissmarkets and BDS Trading, are not permitted to provide regulated financial services to residents of the United Kingdom."
- 5) The Firm must display, and continue to display, on its trading platform, at the point when clients log into the trading platform, a notice of such size and prominence that all users seeking to log into the trading platform will inevitably see and be able to read it, which states: "Firms within the BDSwiss Group, trading as BDSwiss, Swissmarkets and BDS Trading, are not permitted to provide regulated financial services to residents of the United Kingdom."
- 6) If not previously notified, the Firm must notify all its clients who are resident in the United Kingdom by email that it is no longer able to provide regulated financial services to them and will be taking all reasonable steps to return all balances held by the Firm on their behalf.
- 7) Unless previously notified, the Firm must provide the Authority with a copy of the text used for the purposes of notifying clients under requirement 6) and a list of the email addresses to which such notifications were sent.
- 8) By 3pm on 2 August 2021, in respect of all its clients who are resident in the United Kingdom, the Firm must close all open trading positions and liquidate the positions into pound sterling balances (save for hedged positions which should be netted off rather than closed individually). Any positive cash balance held by a client resident in the United Kingdom must be paid to a bank or payment account held in the client's name as soon as practicable and, in any event, by 18 August 2021.
- 9) The Firm must take all reasonable steps and use best endeavours to ensure that, as soon as practicable, other members of the Group of which the Firm is part ("the Group"), including but not limited to, BDS Markets and BDS Ltd:
  - a) cease providing regulated financial services to clients who are resident in the United Kingdom;
  - b) cease conducting, or causing to be conducted, marketing activity to persons resident in the United Kingdom;
  - c) take reasonable steps to ensure that any marketing activity which any firm within the Group knows, or has reasonable cause to believe, promotes regulated financial services involving trading through a firm within the Group, is withdrawn.

- d) display, and continue to display thereafter, on all websites used by it in the course of providing regulated activities, including but not limited to [www.bdswiss.com](http://www.bdswiss.com), [www.swissmarkets.com](http://www.swissmarkets.com) and [www.bdstrading.com](http://www.bdstrading.com), a notice of such size and prominence that all viewers of the website will inevitably see and be able to read it, which states: "Firms within the BDSwiss Group, trading as BDSwiss, Swissmarkets and BDS Trading, are not permitted to provide regulated financial services to residents of the United Kingdom."
  - e) notify all their clients who are resident in the United Kingdom that they are not permitted to provide regulated financial services to residents of the United Kingdom and will be taking all reasonable steps to return balances held on their behalf to them;
  - f) notify all affiliates, trading partners and other introducers that they are not able to provide regulated financial services to residents of the United Kingdom;
  - g) close all open trading positions held by clients who are resident in the United Kingdom; and
  - h) return all positive cash balances held on behalf of clients who are resident in the United Kingdom;
- 10) By 28 July 2021, the Firm must notify the Authority in writing what steps have been taken by the Firm under requirements 1) to 9) and what the results of these steps have been.
- 11) From 28 July 2021, the Firm must provide further written notifications to the Authority every seven days of further steps taken under requirements 1) to 9) and the results of these steps unless and until notified by the Authority in writing that such notifications are no longer needed.
- 12) The Firm must secure and preserve all records and/or information (physical or electronic) relating to its regulated activities from its systems in their original form. These must be retained in a form and at a location to be notified to the Authority in writing by 28 July 2021 such that they can be provided to the Authority, or to a person named by the Authority, promptly on its request.
- 1.4 The Revised Requirements shall remain in force unless and until varied or cancelled by the Authority (either on the application of the Firm or on the Authority's own initiative).

## **2 REASONS FOR ACTION**

- 2.1 The Firm is an investment firm registered in Cyprus. It has a temporary permission under the TPR to provide investment services to UK consumers. The Firm provides consumers with the ability to trade CFDs using an online platform accessible through its websites [www.eu.bdswiss.com](http://www.eu.bdswiss.com), [www.eu.swissmarkets.com](http://www.eu.swissmarkets.com) and [www.eu.bdstrading.com](http://www.eu.bdstrading.com).
- 2.2 The Firm is part of a group of companies ("the Group") which includes two other CFD trading firms, registered overseas ("the Overseas Firms"). The Firm and the Overseas Firms have common ownership and management and significant parts of the operations of the Overseas Firms are conducted from the premises of the Firm, located in Limassol, Cyprus. Neither of the Overseas Firms has any

permission to conduct regulated activities in the UK. The Group markets its trading services under three brands: 'BDSwiss', 'Swiss Markets' and 'BDS Trading', each of which are used by the Firm and the Overseas Firms.

- 2.3 Trading in CFDs involves significant risks and can lead to substantial monetary losses in short spaces of time. CFDs are not generally suited to retail investors who are not sufficiently sophisticated to understand and manage the risks involved. For that reason, the Authority has imposed rules which restrict the marketing and sale of CFDs to retail consumers. Authorised firms are required to comply with these, and other, rules giving customers a degree of protection.
- 2.4 The Group uses the regulated status of the Firm as a mark of the group's legitimacy and trustworthiness. However, almost 99% of the UK-resident customers who engaged with the Group had opened accounts with, and traded through, one of the Overseas Firms. This meant that customers did not have the same level of protection.
- 2.5 The Group relies upon networks of affiliates to solicit customers to transact with the Group. These affiliates frequently use social media to attract customers and to solicit them to engage with the Group. The Group pays affiliates commission for attracting customers, sometimes in extremely high sums.
- 2.6 
- 2.7 As a result of the activities of the Group, numerous UK consumers have lost significant sums of money.
- 2.8 In the circumstances, the Authority considered that the continuing provision of regulated services by the Group in respect of UK consumers presented unacceptable risks. As a result, the Authority considered that it was desirable to impose the Initial Requirements on the Firm which prevented it from conducting regulated activities in respect of, and marketing its products to, UK consumers, ensured that the effect of these measures was brought to the attention of its current and potential future UK clients and required it to take reasonable steps to ensure that the other members of the Group also cease conducting regulated activities in respect of UK consumers.
- 2.9 The Authority imposed the Initial Requirements on the Firm on 12 July 2021. The Firm made oral and written representations to the Authority on the imposition of the Initial Requirements to the effect that, variously, they should be revised or revoked.
- 2.10 Having considered the Firm's representations, the Authority considers that the Initial Requirements should be varied solely by amending the dates for the completion of various of the Initial Requirements.
- 2.11 The Authority further considers that the effect of the Requirements should be brought to the attention of UK consumers to alert them to the risks of dealing with the Group.

2.12 This action is taken in order to advance the Authority's consumer protection objective.

### **3 DEFINITIONS**

3.1 In this Notice:

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

"the Authority" means the Financial Conduct Authority;

"CFDs" means contracts for differences;

"COBS" means the Conduct of Business Sourcebook, part of the Handbook;

"the Group" means the group of companies, of which the Firm is part;

"the Firm" means BDSwiss Holding Plc (FRN 607761), which trades as 'BDSwiss', 'Swiss Markets' and 'BDS Trading';

"the Handbook" means the Authority's online handbook of rules and guidance (as in force from time to time);

"the Initial Requirements" means the requirements imposed by the Authority on the Firm on 12 July 2021;

"the Overseas Firms" means BDS Markets, a company registered in Mauritius and BDS Ltd, a company registered in the Seychelles;

"the Revised Requirements" mean the requirements set out at paragraph 1.3 of this Notice;

"the TPR" means the temporary permissions regime for firms previously operating in the UK under European Economic Area passporting provisions; and

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

### **4 FACTS AND MATTERS**

#### Background

4.1 The Firm is a company registered in Cyprus. It trades using the brand names 'BDSwiss', 'Swiss Markets' and 'BDS Trading'. Until the introduction of the TPR, it had the right to provide cross-border services into the UK pursuant to EEA passporting provisions.

4.2 On 23 January 2019, the Firm provided notice of its intention to enter the TPR and was thus given a temporary permission when the TPR was introduced on 1 January 2021. The TPR was designed to be a temporary regime for former passported firms until applications for full authorisation could be considered. The effect of this is that the Firm is deemed to be an authorised person but the Authority has not yet assessed the ownership, internal controls and business practices of the Firm.

4.3 The Firm's principal activity is the provision of CFDs on a trading platform which can be accessed via its websites, [www.eu.bdsiss.com](http://www.eu.bdsiss.com), [www.eu.swissmarkets.com](http://www.eu.swissmarkets.com) and [www.bdstrading.com](http://www.bdstrading.com).

- 4.4 CFDs are complex financial derivative products which are used to speculate on the movement in prices on a wide range of assets. They frequently involve high levels of leverage which creates the risk of substantial losses in the event of even small adverse price fluctuations in the underlying assets. CFDs present significant risks to investors who lack the necessary experience, knowledge and expertise to make appropriate investment decisions. As a result, they are generally unsuitable products for inexperienced investors.
- 4.5 For this reason, authorised firms are subject to restrictions in respect of the marketing and sales of CFDs to retail consumers in the UK. In particular, there are mandatory risk warnings which must be applied to all financial promotions and limits on the maximum applicable leverage (which depend on the nature of the underlying asset).
- 4.6 Firms operating outside the UK's regulatory jurisdiction are not subject to these restrictions and consumers dealing with them may therefore not have the same level of protection.

#### The Group

- 4.7 The Firm is part of the Group, a group of companies registered in a number of jurisdictions. The Overseas Firms, which are also part of the Group, also operate as CFD providers. They are both registered overseas and regulated by their respective regulators. Neither of the Overseas Firms has any permission to conduct regulated activities in the UK.
- 4.8 The Group markets its CFDs using brands common to the Firm and to the Overseas Firms. The websites used by the Group, [www.bdswiss.com](http://www.bdswiss.com), [www.swissmarkets.com](http://www.swissmarkets.com) and [www.bdstrading.com](http://www.bdstrading.com), provide details of the Firm and the Overseas Firms, including the respective regulatory status of each.
- 4.9 Neither of the Overseas Firms employs a significant number of employees and most of their significant business functions appear to be conducted from the premises of the Firm, either by the Firm itself or by another, Cypriot-registered company within the Group.
- 4.10 Between 2017 and 2021, a total of 94,038 UK-resident clients opened accounts with firms in the Group. Of these, just 1,095 (1.16% of the total) opened accounts with the Firm. 92,943 (98.84%) opened accounts with the Overseas Firms. Overall, UK-resident clients of the Group lost over 96% of the total monies invested. Over 70 clients lost more than £100,000 each.

#### Affiliates

- 4.11 For the purposes of attracting UK-resident consumers, the Group relies on networks of introducers, termed 'affiliates', who are paid commission for referring customers to the Group. These commission payments are substantial. In a 17 month period between 1 January 2020 and 1 June 2021, 129 affiliates were paid a total of £14.7 million for referring 48,038 UK-resident consumers. Five affiliates were paid over £1 million each.
- 4.12 These affiliates frequently use social media platforms to attract consumers. At least 12 of the affiliates have done so by marketing 'signal' services, the provision of trading signals which consumers are invited to follow. Frequently,

these are marketed as being foreign exchange trades and frequently fail to mention that the underlying financial instruments being recommended are CFDs.

4.13 [REDACTED]

4.14 [REDACTED]

4.15 [REDACTED] of the UK-resident clients of the Group referred by affiliates, almost 99% of them were referred to the Overseas Firms, meaning the clients did not benefit from the protections afforded to consumers dealing with an authorised firm. The Group's policies prohibit affiliates from marketing the services of the Overseas Firms to UK consumers but the overwhelming proportion of the clients referred to the Overseas Firms, rather than to the Firm, demonstrates that this is accepted practice. In some instances, the Authority has seen evidence of affiliates directing consumers to engage with one of the Overseas Firms (rather than the Firm).

4.16 Financial promotions used by affiliates rarely make clear that a significant part of the affiliate's income is generated by commission payments, received for referring consumers to the Group and thereby indirectly received at the consumer's expense.

4.17 The Authority has taken a range of measures against such affiliates, including issuing consumer warnings and requesting that offending social media pages are deleted. [REDACTED] However, the ease with which new social media accounts can be opened, together with the significant financial benefit available from commission payments, means that such measures have not been entirely successful in deterring such conduct.

4.18 [REDACTED]

4.19 [REDACTED]

## Complaints

- 4.20 Since May 2020, the Authority has received at least 17 complaints from consumers about the provision of CFDs by the Group. These allege a range of improper actions including changes to leverage without consent, losing money after trading recommendations which were represented as being profitable, putting on trades without consent, an inability to contact the Group and failures to return monies.
- 4.21 It is not clear whether these cases involve misconduct on the part of the Group or its employees. However, by contracting with the Overseas Firms, which are not authorised in the UK, these customers lost the important protection of being able to refer complaints to the Financial Ombudsman Service.

#### Representations

- 4.22 The Firm made oral representations in respect of the Initial Requirements to the Authority on 15 July 2021 and written representations on 19 July 2021. The representations denied that the Firm induced UK consumers to contract with the Overseas Firms and was not aware that affiliates were soliciting UK clients to the Overseas Firms. The Firm stated that it had taken steps to terminate contracts with certain affiliates.
- 4.23 The Firm stated that the deadlines for taking action under the Initial Requirements would adversely impact the Firm's business and have a detrimental effect on clients.
- 4.24 The Firm proposed alternative measures, including preventing UK consumers from engaging with the Overseas Firms and closing all accounts held by UK consumers with the Overseas Firms but allowing accounts held by UK consumers with the Firm to remain open.

### **5 REASONS FOR ACTION**

- 5.1 The regulatory provisions relevant to this Revised First Supervisory Notice are set out in the Annex.
- 5.2 The Authority considers that the Group uses the regulatory status of the Firm as an indicator of the legitimacy and trustworthiness of the Group as a whole.
- 5.3 Despite this, when clients were solicited to contract with the Group for the provision of regulated activities, in the overwhelming majority of cases, they were induced to transact with one of the Overseas Firms, thereby meaning that these clients did not have the protections afforded by dealing with an authorised firm. Neither of the Overseas Firms has any right to conduct authorised activities in respect of UK consumers and the consequences of dealing with an unauthorised firm was commonly not made clear to clients.
- 5.4 Although the Firm denies that it induces UK consumers to transact with the Overseas Firms, the Authority considers that the nature of the connections between the Firm and the Overseas Firms, and the proportion of the UK clients of the Group who transact with the Overseas Firms, mean that the Firm must be aware of the practice of inducing clients to transact with the Overseas Firms.
- 5.5 The Authority considers that the ongoing provision by the Group of regulated activities presents serious risks to the interests of UK consumers. The Authority has considered the proposals advanced by the Firm in its representations but



does not consider that they adequately mitigate the risks with the Authority perceives.

- 5.6 As a result, the Authority has concluded that it is desirable to maintain the Initial Requirements which prevented the Firm from providing any further regulated services to UK consumers, thereby ensuring that the Group cannot use the Firm's status to legitimise the provision of regulated services by other members of the Group.
- 5.7 The Authority considers it to be desirable to impose requirements to ensure that, as far as possible, all current and potential future clients of the Group are alerted to the effect of the Requirements.
- 5.8 The Authority also considers it to be desirable to impose requirements to ensure that the Firm takes all reasonable steps to ensure that the Overseas Firms puts in place similar measures.
- 5.9 The Authority considers that it is appropriate to amend the Initial Requirements by extending the deadlines for completion of requirements 1), 5), 6), 7) 8), 10), 11) and 12) and has revised these requirements accordingly.
- 5.10 This action is taken to advance the Authority's consumer protection objective.
- 5.11 The Authority considers that the Requirements are an appropriate and proportionate means to protect against the risks identified.

## **6 PROCEDURAL MATTERS**

### Decision Maker

- 6.1 The decision which gave rise to the obligation to give this Revised First Supervisory Notice was made by Nick Miller. Nick Miller is the Head of Department of the Asset Management Department, Wholesale Supervision.
- 6.2 This Revised First Supervisory Notice is given under section 55Y(8)(b) and in accordance with section 55Y(5) of the Act.
- 6.3 The following statutory rights are important.

### Representations

- 6.4 The Firm has the right to make representations to the Authority (whether or not it refers this matter to the Tribunal). The deadline for providing written representations and/or notifying the Authority that the Firm wishes to make oral representations is **12 August 2021** or such later date as may be permitted by the Authority. The address for doing so is:

RTC Secretariat  
Financial Conduct Authority  
12 Endeavour Square  
London  
E20 1JN  
Email: [RTCSecretariatMailbox@fca.org.uk](mailto:RTCSecretariatMailbox@fca.org.uk)

### The Tribunal

- 6.5 The Firm has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal, which considers references arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Firm has 28 days from the date on which this Revised First Supervisory Notice is given to it to refer the matter to the Tribunal.
- 6.6 A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by the Firm and filed with a copy of this First Supervisory Notice. The Tribunal's contact details are: Upper Tribunal (Tax and Chancery Chamber), 5th Floor, Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: [uttc@justice.gov.uk](mailto:uttc@justice.gov.uk)).
- 6.7 Further details can be found on the Upper Tribunal's website at <https://www.gov.uk/guidance/refer-a-financial-service-or-energy-market-decision-to-a-tribunal>.
- 6.8 A copy of Form FTC3 must also be sent to William Walsh at the Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN ([william.walsh@fca.org.uk](mailto:william.walsh@fca.org.uk)) at the same time as a reference is filed with the Tribunal.

### Confidentiality and publicity

- 6.9 The Firm should note that this Revised First Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining legal advice on its contents).
- 6.10 The Firm should note that section 391(5) of the Act requires the Authority, when this Revised First Supervisory Notice takes effect (and this Revised First Supervisory Notice takes immediate effect), to publish such information about the matter to which the notice relates as it considers appropriate.

### Authority contacts

- 6.11 For more information concerning this matter generally, contact William Walsh (email [william.walsh@fca.org.uk](mailto:william.walsh@fca.org.uk), direct line 020 066 5518) at the Authority.

**Nick Miller**  
**Executive Decision maker on behalf of the Authority**

## **Annex**

### **RELEVANT STATUTORY PROVISIONS UNDER THE ACT**

1. The Authority's operational objectives established in section 1B of the Act include securing an appropriate degree of protection for consumers (section 1C).
2. Section 55L of the Act allows the Authority to impose a new requirement, or to vary a requirement previously imposed by the Authority under section 55L, on an authorised person if it appears to the Authority that it is desirable to exercise the power in order to advance one or more of the Authority's operational objectives (section 55L(2)(c)). This power is referred to as the Authority's own-initiative requirement power.
3. Section 55N of the Act allows a requirement to be imposed under section 55L of the Act so as to require the person concerned to take specified action (section 55N(1)(a)) or to refrain from taking specified action (section 55N(1)(b)). Section 55N(2) provides that a requirement may extend to activities which are not regulated activities.
4. Section 391 of the Act provides that:
  - "[...]
    - (5) When a supervisory notice takes effect, the Authority must publish such information about the matter to which the notice relates as it considers appropriate.[...]
    - (6) The Authority may not publish information under this section if in its opinion, publication of the information would, be unfair to the person with respect to whom the action was taken or proposed to be taken [or] prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.[...]
    - (7) Information is to be published under this section in such manner as the Authority considers appropriate."

### **RELEVANT REGULATORY PROVISIONS**

#### **COBS**

5. COBS 22.5 sets out restrictions on the retail marketing, distribution and sale of CFDs. By COBS 22.5.1-AG, these apply to firms in the TPR.
6. COBS 22.5.6R provides that a firm must not: (a) market, publish, provide or communicate in any other way any communication or information in a durable medium or on a webpage or website to a retail client or in such a way that it is likely to be received by a retail client; (b) approve or communicate a financial promotion in a durable medium or on a webpage or website; or (c) disseminate such a communication, information or financial promotion to a retail client, or in such a way that it is likely to be received by a retail client unless the firm includes a specified risk warning.
7. COBS 22.5.11R provides minimum levels of margin (which depend on the underlying asset) which a firm must require a retail client to post to open a position.

## The Enforcement Guide

8. The Authority's policy in relation to its own-initiative powers is set out in chapter 8 of the Enforcement Guide (EG), certain provisions of which are summarised below.
9. EG 8.2.1 provides that the Authority will have regard to its statutory objectives and the range of regulatory tools that are available to it, when it considers how it should deal with a concern about a firm. It will also have regard to the responsibilities of a firm's management to deal with concerns about the firm or about the way its business is being or has been run and the principle that a restriction imposed on a firm should be proportionate to the objectives the Authority is seeking to achieve.
10. EG 8.2.3 provides that the Authority will exercise its formal powers under section 55L of the Act, where the Authority considers it is appropriate to ensure a firm meets its regulatory requirements. EG 8.2.3(1) and (2) specifies that the Authority may consider it appropriate to exercise its powers where it has serious concerns about a firm or the way its business is being or has been conducted, where it is concerned that the consequences of a firm not taking the desired steps may be serious or where the imposition of a formal statutory requirement reflects the importance the Authority attaches to the need for the firm to address its concerns.
11. EG 8.2.6 provides examples of circumstances in which the Authority will consider varying a firm's Part 4A Permission because it has serious concerns about a firm or about the way its business is being or has been conducted. These include where the firm appears to be failing to satisfy the Threshold Conditions because its material and financial resources appear inappropriate for the scale or type of regulated activity it is carrying on, for example, where it has failed to take account of the need to manage risk professional indemnity insurance or where it is unable to meet its liabilities as they have fallen due; or the firm appears not to be a fit and proper person to carry on a regulated activity because it has breached requirements imposed on it by or under the Act, and the breaches are material in number or in individual seriousness.
12. EG 8.3.1 provides that the Authority may impose a requirement so that it takes effect immediately or on a specified date if it reasonably considers it necessary for the requirement to take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative powers.
13. EG 8.3.2 provides that the Authority will consider exercising its own-initiative power as a matter of urgency where (1) the information available to it indicates serious concerns about the firm or its business that needs to be addressed immediately; and (2) circumstances indicate that it is appropriate to use statutory powers immediately to require and/or prohibit certain actions by the firm in order to ensure the firm addresses these concerns.
14. EG 8.3.3 states that it is not possible to provide an exhaustive list of the situations that will give rise to such serious concerns, but they are likely to include one or more of four listed characteristics, these include: "(1) *information indicating significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests*"; (2) *information indicating that a firm's conduct has put it at risk of being used for the purposes of financial crime, or of being otherwise involved in crime;...*".
15. EG 8.3.4 states that the Authority will consider the full circumstances of each case when it decides whether an imposition of a requirement is appropriate and sets out a non-exhaustive list of factors the Authority may consider. These include:

- "(1) *The extent of any loss, or risk of loss, or other adverse effect on consumers. The more serious the loss or potential loss or other adverse effect, the more it is that [the Authority]’s urgent exercise of its own-initiative powers will be appropriate, to protect the consumers’ interests.*
- (2) *The extent to which customer assets appear to be at risk. Urgent exercise of [the Authority]’s own-initiative power may be appropriate where the information available to [the Authority] suggests that customer assets held by, or to the order of, the firm may be at risk.*
- ...
- (4) *The seriousness of any suspected breach of the requirements of the legislation or the rules and the steps that need to be taken to correct that breach.*
- ...
- (8) *The firm’s conduct. [The Authority] will take into account:*
- (a) whether the firm identified the issue (and if so whether this was by chance or as a result of the firm’s normal controls and monitoring);*
  - (b) whether the firm brought the issue promptly to [the Authority]’s attention;*
  - (c) the firm’s past history, management ethos and compliance culture;*
  - (d) steps that the firm has taken or is taking to address the issue.*
- (9) *The impact that use of [the Authority]’s own-initiative powers will have on the firm’s business and on its customers. [The Authority] will take into account the (sometimes significant) impact that a variation of permission may have on a firm’s business and on market confidence. [The Authority] will need to be satisfied that the impact of any use of the own-initiative power is likely to be proportionate to the concerns being addressed, in the context of the overall aim of achieving its statutory objectives."*