
FIRST SUPERVISORY NOTICE

To: **Cavendish Incorporated Limited**

Reference Number: **942176**

Address: **34-36 Albert Embankment
London
SE1 7TL**

Date: **2 August 2021**

1 ACTION

- 1.1 For the reasons given in this First Supervisory Notice, and pursuant to sections 55L(2) and (3) of the Financial Services and Markets Act 2000 ("the Act"), the Financial Conduct Authority ("the Authority") has decided to impose the following requirement ("the Requirement") on Cavendish Incorporated Limited ("Cavendish" with immediate effect:

"Cavendish must not, without the prior written consent of the Authority, carry on any regulated activities for which it has a Part 4 A permission."

- 1.2 The Requirement shall take immediate effect and remain in force unless and until varied or cancelled by the Authority (either on the application of Cavendish or of the Authority's own volition).

2 REASONS FOR ACTION

Summary

- 2.1 The Authority has concluded, on the basis of the facts and matters described below, that it is appropriate to exercise its power under sections 55L(2) and (3) of the Act to impose the Requirement on Cavendish because it is failing, or is likely to fail, to satisfy the Suitability Threshold Condition (paragraph 2E of Schedule 6 to the Act). The action is also desirable in order to advance the Authority's operational objective of securing an appropriate degree of protection for consumers (section 1C of the Act).

2.2 The Authority has identified serious concerns relating to Cavendish in that it appears to have breached the Authority's Principles for Businesses in the following way:

- 1) Principle 6 (Customers' interests) by failing to pay due regard to the interests of its customers and treat them fairly:
 - a) Since March 2021, the Authority has received reports from eight consumers claiming to have invested substantial funds in bonds or loan notes issued by Cavendish or through its former appointed representative ("AR"), Cottesmore Associates Limited ("Cottesmore"). Based on these reports, it appears Cavendish and Cottesmore provided consumers with misleading information about the extent of protection available under the Financial Services Compensation Scheme ("FSCS") for these investments and on the permitted scope of their regulated activities. These misleading statements were likely designed to increase consumer trust in Cavendish and Cottesmore, and to influence investment decisions.
 - b) It appears Cavendish and Cottesmore have carried out investment related activities with consumers. Neither Cavendish nor Cottesmore are permitted by the Authority to provide regulated investment services. Cavendish and Cottesmore's actions may pose significant risks to consumers due to the potential lack of regulatory protection that would otherwise be afforded to them.
- 2) Principle 11 (Relations with regulators) by failing to deal with the Authority in an open and cooperative way:
 - a) The Authority is unclear about the actual nature of Cavendish's current business activities. Based on information from Cavendish's website, Companies House records and consumer reports, they disclose activities that suggest Cavendish is not engaged in credit broking activity for which it is authorised.
 - b) The Authority is also unclear on the identity of Cavendish's director. Cavendish's website includes information on Cavendish's director but the details disclosed are inconsistent with those supplied in the CV that was submitted to the Authority in support of her application for approval.
 - c) Cavendish has failed to provide the Authority with correct and up-to-date details for its Financial Services Register records held by the Authority. There are inconsistencies relating to Cavendish's contact details as recorded on Companies House and the Financial Services Register.
 - d) On 7 May 2021, Cavendish applied to the Authority to withdraw Cottesmore's AR status. Cavendish explained it ended its relationship with Cottesmore after an investigation found that Cottesmore was offering services for which it was not approved. Cavendish has not provided any specific details about this investigation.
 - e) Since April 2021, Cavendish has not answered telephone calls or responded to written communications from the Authority. The written communications included three information requests issued under section 165 of the Act requiring information about Cavendish's business activities.

- 2.3 The Authority considers that imposition of the Requirement should take immediate effect because the matters set out in this First Supervisory Notice demonstrate that Cavendish is not conducting its affairs in an appropriate manner having regard to the interests of consumers, nor is it complying with requirements imposed by the Authority.

3 DEFINITIONS

- 3.1 The definitions below are used in this First Supervisory Notice:

“the Act” means the Financial Services and Markets Act 2000;

“AR” means appointed representative;

“the Authority” means the Financial Conduct Authority;

“Cavendish” means Cavendish Incorporated Limited;

“Cottesmore” means Cottesmore Associates Limited;

“FSCS” means the Financial Services Compensation Scheme;

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

“Requirement” means the term imposed on Cavendish by this First Supervisory Notice as outline in section 1 above;

“SMF” means senior management function;

“Supervision” means the Authority’s Supervision Division; and

“Tribunal” means the Upper Tribunal (Tax and Chancery Chamber).

4 FACTS AND MATTERS

Background

- 4.1 Cavendish was incorporated on 26 July 2019. It was authorised on 17 January 2021 as a limited permission credit broker with secondary broking permission. Cavendish is not permitted to hold client money.
- 4.2 Cavendish’s website, www.cavendish-incorporated.com, indicates that it is engaged in property development activity across a wide range of commercial property sectors.
- 4.3 Cavendish is managed by one approved person who has held the SMF29 limited scope function since 17 January 2021. According to Companies House records, she has been the sole director and significant controller of Cavendish since 1 December 2020.
- 4.4 Cottesmore was appointed as Cavendish’s only AR between 11 February 2021 and 7 May 2021.

Failings and risks identified

Consumer reports to the Authority

- 4.5 Since March 2021, eight consumers have contacted the Authority requesting information and/or expressing concern about the activities of Cavendish and Cottesmore. The consumers all describe similar activities and patterns of conduct by Cavendish and Cottesmore. Three consumers have provided additional documentation to the Authority which supports their account of dealings with Cavendish and Cottesmore.

Investment activities with consumers

- 4.6 Each consumer report indicates that Cavendish and Cottesmore have engaged in serious misconduct that presents significant risk to the interests of consumers and may result in significant financial losses for individual investors. The reports suggest that Cavendish and Cottesmore have carried on investment related activities with consumers without required permissions.
- 4.7 All consumers reported that they were offered fixed rate investment products (either an ISA, bond or convertible loan agreement) with high monthly or annual interest rates (between 3.5% – 7.2%) for a duration of 1 – 5 years. This has been confirmed by certificates of investment provided by three consumers.
- 4.8 According to the consumer reports, it appears that Cavendish and Cottesmore worked together in implementing the investment scheme:
- a) Five reports indicate that consumers invested through and/or were advised by Cottesmore agents. However, consumers also received email correspondence from Cavendish confirming the payment and onboarding process.
 - b) Investment agreements were signed-off by Cavendish.
 - c) Investors with Cavendish were assigned support from a member of the Investor Relations Team at Cottesmore.
- 4.9 Based on these arrangements, it appears that Cavendish either knew or should have known about the activities carried out on its behalf by Cottesmore.

Misleading statements to consumers

- 4.10 The consumer reports indicate that Cavendish and Cottesmore highlighted their status as authorised firms without specifying the specific nature of their permitted regulated activities, and wrongly stated that investments would be protected by the FSCS.
- 4.11 Several consumers reported that Cottesmore agents had stated their investments were risk free and protected by the FSCS. The reports and copies of correspondence provided by consumers show that Cavendish and Cottesmore highlighted they were regulated by the Authority without clarifying the specific nature of their permissions (although one email provided a link to the Financial Services Register for Cavendish). Taken at face value, the statements gave the impression that Cavendish and Cottesmore had permissions to undertake investment activities.
- 4.12 One consumer has provided copies of email communications with Cavendish and a Cottesmore agent in which:

- a) The agent described investments with Cavendish as secure and risk free with protection from the FSCS, the Authority and a trustee of Cavendish.
 - b) The agent emphasised the opportunity of higher returns from investments with Cavendish compared to other investments (particularly premium bonds).
 - c) The agent presented himself as an experience and qualified IFA and advised the consumer on the type of investments they should make.
- 4.13 These misleading statements were likely designed to increase consumer trust in Cavendish and Cottesmore, and to influence investment decisions. Six consumers who contacted the Authority had invested £220,000 collectively in Cavendish's investment products. Of these, one consumer invested £20,000, one consumer invested £30,000, three consumers invested £40,000 and one consumer invested £50,000.

Ongoing contact with consumers

- 4.14 The investments reported by the consumers were all made with the involvement of Cottesmore before it ceased to be Cavendish's AR on 7 May 2021. Cottesmore even contacted one consumer informing them of the termination of its arrangement with Cavendish but highlighting that payments towards their investment should continue. Another consumer has since been contacted by Cottesmore regarding a share sale and re-purchase scheme by Cavendish. The Cottesmore agent told the consumer that Cavendish would be listed on the stock market in August 2021. Shares would be sold for £1 each and then re-purchased by Cavendish for £1.50 each within a week.
- 4.15 Three consumers have reported that they have been unable to contact Cavendish and/or Cottesmore after investing.
- 4.16 In July 2021, two consumers were subsequently approached by Cavendish offering full redemption of their investments with interest, provided that they pay a fee.
- a) The first consumer was contacted by Cavendish offering to return their investment in full with interest and compensation if the consumer pays £6,000 in legal fees.
 - b) The second consumer was contacted by Cavendish claiming that its infrastructure had been compromised and it had been advised by its legal representatives and the Authority to redeem its bonds. Cavendish requested the consumer pay £4,777 in legal and transactional fees first. Cavendish stated that the consumer would be refunded within 3 working days if they paid the fee, otherwise the consumer would have to deal with Cavendish's liquidators and the Authority which might take a long time.
- 4.17 The Authority has not engaged with Cavendish in respect of any compromised infrastructure as was described to the consumer. This appears to be a further example of Cavendish misleading consumers through statements regarding its authorised status.
- 4.18 Based on the recent communications, the Authority considers that Cavendish and Cottesmore continue to present a significant risk to consumers. The offer of share sale/re-purchase and bond redemption schemes demonstrate they pose a continuing risk to existing investors, even if no new investments are being sold to new consumers.

Business model

Cavendish's current business activities

- 4.19 Cavendish was authorised on 17 January 2021 with secondary credit broking permission. However, based on information from its website, Companies House records and consumers, the Authority is unclear about the actual nature of Cavendish's current business activities.
- 4.20 Companies House records the nature of Cavendish's business as engineering related scientific and technical consulting activities.
- 4.21 Cavendish's website describes its business activities as being to "*acquire, develop and manage a large variety of commercial properties in different sectors*". The website does not give any examples of specific developments or Cavendish's involvement in them. More significantly, the website does not list any activities that would suggest Cavendish is engaged in any credit broking activity.
- 4.22 Consumer reports to the Authority suggest that Cavendish has been conducting investment activities. The consumers reported that they have invested in ISA bonds and/or convertible loan notes issued by Cavendish. However, Cavendish's website does not contain any information on these investments or any indication that such investments are available.
- 4.23 One consumer provided a brochure for Cavendish that Cottesmore provided. The brochure describes similar business activities to those on the website, focussing on property development. As with the website, the brochure does not list any activities that would suggest Cavendish is engaged in credit broking activity. However, the brochure sets out investment opportunities available with Cavendish. The description of these do not match the profile of the investments provided to the consumers.

Identity of Cavendish's director

- 4.24 Bhavita Punja was approved as Cavendish's sole SMF holder on 17 January 2021 but the Authority has questions on her identity.
- 4.25 Cavendish's website includes information on Bhavita Punja but the details disclosed are inconsistent with those supplied in the CV that was submitted to the Authority in support of her application for approval for the SMF role.
- 4.26 The website describes Bhavita Punja as a graduate of economics from University A who subsequently worked at a Corporate Bank in London before joining Cavendish. However, according to the CV provided with Bhavita Punja's SMF application, she graduated with a degree in economics from University B and has not worked at the Corporate Bank. The Authority is unclear on whether the information provided in support of Bhavita Punja's application for approval is complete and accurate.

Cavendish's Financial Services Register details

- 4.27 On 17 January 2021, the Authority sent an email to Cavendish confirming Cavendish's authorisation and requesting that it check the Financial Services Register details for the firm. Attached to the email was a scope of permissions notice, setting out Cavendish's permitted regulated activities. Cavendish did not respond to this email. It subsequently transpired the complaints telephone number displayed on the Financial Services Register for Cavendish is incorrect.

- 4.28 Cavendish has also failed to notify the Authority of a change to its registered office address. According to the Financial Services Register, Cavendish's address is: 36-46 Albert Embankment SE1 7TL. However, according to Companies House records, Cavendish's address is: 112-120 High Road, Loughton, England IG10 4HJ since 3 June 2021.

Investigation relating to Cottesmore

- 4.29 On 7 May 2021, Cavendish applied to the Authority to withdraw Cottesmore's AR status. Cavendish explained it terminated its relationship with Cottesmore after an investigation found that Cottesmore was offering services for which it was not approved.
- 4.30 Cavendish has not provided the Authority with any specific details about this investigation, or any updates regarding any other steps it has taken to address Cottesmore's misconduct in response to the findings apart from end their relationship.

Engagement with Cavendish

- 4.31 Following the consumer reports, the Authority tried to contact Cavendish by email, letter and telephone to obtain information about its business activities in order to ascertain whether it has been acting outside the scope of its permitted regulated activities.
- 4.32 All communications with Cavendish were sent by email to the recorded email addresses for the firm and its director. Information requirements made under section 165 of the Act ("section 165 request") were sent by post to both addresses recorded on the Financial Services Register and by Companies House.
- 4.33 On 21 April 2021, the Authority emailed Cavendish stating it had identified the firm may be undertaking regulated activities for which it was not permitted. The Authority asked Cavendish to review its current permissions and activities to determine if it needs additional permissions. Cavendish did not respond.
- 4.34 Having received no response, on 17 June 2021, the Authority issued a section 165 request to Cavendish by email to require the information sought about its business activities with a deadline of 24 June 2021. Cavendish did not respond.
- 4.35 On the 12 July 2021, the Authority sent another section 165 request to Cavendish by post and email requesting the same information. The Authority also drew attention to the consequences of failure to comply without reasonable excuse. The deadline for the provision of information was 19 July 2021. Cavendish did not respond.
- 4.36 The Authority issued a final section 165 request to Cavendish on 20 July 2021 with the same requirements and warning regarding the consequences of failure to comply. This gave a deadline for response of 26 July 2021. Cavendish did not respond.
- 4.37 Cavendish has two telephone numbers recorded on the Financial Services Register. The Authority has tried to contact Cavendish on its main telephone number on 16 occasions since 30 June 2021. On each occasion, the line has been busy. The complaints telephone number generates a message indicating it is not a valid number.

4.38 The Authority has not received a response to any of these communications. However, during this period, Cavendish contacted the Authority on 7 May 2021 to withdraw Cottesmore status as its AR. It appears that Cavendish may be ignoring the Authority's communications.

5 CONCLUSION

5.1 The regulatory provisions relevant to this First Supervisory Notice are set out in the Annex.

Analysis of failings and risks

Compliance with regulatory requirements

5.2 Based on the facts and matters described, Cavendish appears to have breached the Authority's Principles for Businesses.

5.3 Principle 6 (Customers' interests). Consumer reports indicate that Cavendish and Cottesmore highlighted their status as authorised firms without specifying the specific nature of their permitted regulated activities, and wrongly stated that investments would be protected by the FSCS. These misleading statements were likely designed to increase consumer trust in Cavendish and Cottesmore, and to influence investment decisions. At least six consumers have invested £220,000 collectively in Cavendish's investment products. In addition, neither Cavendish nor Cottesmore are permitted by the Authority to provide regulated investment services. Their actions may pose significant risks to consumers due to the potential lack of regulatory protection that would otherwise be afforded to them. Consequently, the Authority considers that Cavendish and Cottesmore have not treated consumers fairly.

5.4 Principle 11 (Relations with regulators). The Authority has unsuccessfully tried to contact Cavendish by email, post and telephone since April 2021 to obtain information about the nature of its current business activities. This has included three information requirements issued under section 165 of the Act and 16 telephone calls since 30 June 2021. Cavendish has failed to respond to these communications despite making contact on 7 May 2021 to inform the Authority that it had ended its relationship with Cottesmore. During the process to contact Cavendish, the Authority noted inconsistent and inaccurate information provided by Cavendish for its contact details on the Financial Services Register and on the identity of its SMF holder. Consequently, Supervision considers that Cavendish has not been open and cooperative in its engagement.

Failure to comply with the Threshold Conditions

5.5 The Authority has serious concerns about Cavendish's compliance with the Threshold Conditions. In particular, the Authority considers that Cavendish is failing, or is likely to fail, to satisfy the Suitability Threshold Condition and poses a significant risk to consumers because:

- 1) Cavendish is not conducting its affairs in an appropriate manner having due regard to the interests of consumers as it appears to have been:
 - a) Making misleading statements to consumers to influence their investment decisions that exposes them potentially to substantial financial losses; and
 - b) Providing investment services without due regard to its permitted

regulated activities which may pose significant risks to consumers due to the potential lack of regulatory protection that would otherwise be afforded to them.

- 2) Cavendish is not complying with requirements imposed by the Authority by failing to:
 - a) Respond to the Authority's communications, including information requests issued under section 165 of the Act; and
 - b) Notify the Authority of matters that it would expect notice, such as correcting and providing accurate contact details and full disclosure on issues impacting its business.

5.6 The Threshold Conditions are minimum requirements that firms need to meet in order to be authorised and to continue carrying on regulated activities. The Authority considers that Cavendish is failing, or is likely to fail, to satisfy those minimum requirements.

The Authority's operational objective of consumer protection

5.7 The Authority's operational objective of consumer protection requires the Authority to ensure an appropriate degree of protection for consumers (section 1C(1)). Cavendish appears to have made misleading statements to consumers, potentially provided regulated investment services without required permissions and failed to engage with the Authority to explain its current business activities and to update the Authority on matters that it would expect notice. Cavendish's actions to date demonstrates that it poses a significant risk of harm to consumers.

5.8 On the basis of the facts and matters set out, it appears to the Authority that it is desirable to exercise the power under sections 55L(2) and (3) in order to advance the consumer protection objective.

Timing and duration of the Requirement

5.9 It is necessary to impose the Requirement on an urgent basis to take immediate effect given the seriousness of the risks and the need to protect consumers. Given Cavendish has potentially misled consumers into making investments, carried on regulated investment business without required permissions and failed to respond to regulatory information requests, in assessing the need to act urgently, the Authority has identified under EG 8.3.3:

- 1) Information indicating significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests (EG 8.3.3(1)).
- 2) Evidence that the firm has submitted to the Authority inaccurate or misleading information so that the Authority becomes seriously concerned about the firm's ability to meet its regulatory obligations (EG 8.3.3(3)).

5.10 The Authority considers that it is necessary for the Requirement to remain in place indefinitely.

6 PROCEDURAL MATTERS

Decision-maker

6.1 The decision which gave rise to the obligation to give this First Supervisory Notice

was made by an Authority staff member under executive procedures.

6.2 This First Supervisory Notice is given under section 55Y(4) and in accordance with section 55Y(5) of the Act.

6.3 The following statutory rights are important.

Representations

6.4 Cavendish has the right to make written and oral representations to the Authority (whether or not it refers this matter to the Tribunal). The deadline notifying the Authority that Cavendish wishes to make oral representations and for providing written representations is on 25 August or such later date as may be permitted by the Authority. The address for doing so is:

Regulatory Transactions Committees Secretariat
Corporate Governance Division
The Financial Conduct Authority
12 Endeavour Square
London
E20 1JN
Email: RTCSecretariatMailbox@fca.org.uk

6.5 The Authority must be informed in writing of any intention to make oral representations by 18 August 2021. If the Authority is not notified by this date, Cavendish will not, other than in exceptional circumstances, be able to make oral representations.

The Tribunal

6.6 Cavendish has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. The Tax and Chancery Chamber is part of the Tribunal which, amongst other things, hears references arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, Cavendish has 28 days from the date on which this First Supervisory Notice is given to it to refer the matter to the Tribunal.

6.7 A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by or on behalf of Cavendish and filed with a copy of this First Supervisory Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, 5th Floor, Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: uttc@hmcts.gsi.gov.uk).

6.8 Further information on the Tribunal, including guidance and the relevant forms to complete, can be found on the HM Courts and Tribunal Service website: <http://www.justice.gov.uk/forms/hmcts/tax-and-chancery-upper-tribunal>

6.9 Cavendish should note that a copy of the reference notice (Form FTC3) must also be sent to the Authority at the same time as a reference is filed with the Tribunal. A copy of the reference notice should be sent to David Watkins at the Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN.

Confidentiality and publicity

6.10 Cavendish should note that this 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).

- 6.11 Cavendish should note that section 391(5) of the Act requires the Authority, when the First Supervisory Notice takes effect, to publish such information about the matter to which the notice relates as it considers appropriate.

Authority contacts

- 6.12 For more information concerning this matter generally, contact David Watkins, (david.watkins@fca.org.uk).
- 6.13 Any questions regarding the procedures of the Regulatory Transactions Committee should be directed to the Regulatory Transactions Committees Secretariat by email: RTCsecretariat@fca.org.uk).

Annex

RELEVANT STATUTORY PROVISIONS

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 on an authorised person if it appears to the Authority that the authorised person is failing, or likely to fail to satisfy the Threshold Conditions (section 55L(2)(a)), or 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 55Y(3) of the Act allows a requirement imposed under the own-initiative requirement power to take effect immediately (or on a specified date) if the Authority, having regard to the ground on which it is exercising its own-initiative power, reasonably considers that it is necessary for the requirement to take effect immediately (or on that date).
5. 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) But 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

The Principles for Businesses

6. The Principles for Businesses (PRIN) are a general statement of the fundamental obligations of firms under the regulatory system. PRIN 1.1.2R provides that they derive their authority from the Authority's rule-making powers as set out in the Act and reflect the statutory objectives. The Principles are set out at PRIN 2.1.1, and those which are of particular relevance to this Notice are:

Principle 6 (Customers' interests) provides that a firm must pay due regard to the interests of its customers and treat them fairly.

Principle 11 (Relations with regulators) provides that a firm must deal with its regulators in an open and cooperative way, and must disclose to the Authority

appropriately anything relating to the firm of which that regulator would reasonably expect notice.

The Threshold Conditions

7. The section of the Handbook entitled 'Threshold Conditions' (COND) gives guidance on the Threshold Conditions. COND 1.2.3G provides that the Authority may exercise its own-initiative powers under either section 55J or section 55L of the Act if, among other things, a firm is failing to satisfy any of the Threshold Conditions or is likely to do so.
8. COND 2.5.4G provides examples of the kind of general considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, the Suitability Threshold Condition. These include, but are not limited to, whether the firm conducts its business with integrity and in compliance with proper standards, has a competent and prudent management and can demonstrate that it conducts its affairs with the exercise of due skill, care and diligence.

The Enforcement Guide

9. The Authority's approach 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.
10. EG 8.1.1 reflects the provisions of section 55L of the Act by stating that the Authority may use its own-initiative power to impose requirements on an authorised person where, amongst other factors, the person is failing or is likely to fail to satisfy the threshold conditions for which the Authority is responsible (EG 8.1.1(1)), or it is desirable to exercise the power in order to advance one or more of its operational objectives (EG 8.1.1(3)).
11. EG 8.2.1 states that when the Authority considers how it should deal with a concern about a firm, it will have regard to its statutory objectives and the range of regulatory tools that are available to it. It will also have regard to the principle that a restriction imposed on a firm should be proportionate to the objectives the Authority is seeking to achieve (EG 8.2.1(2)).
12. EG 8.2.3 states that in the course of its supervision and monitoring of a firm or as part of an enforcement action, the Authority may make it clear that it expects the firm to take certain steps to meet regulatory requirements. In the vast majority of cases the Authority will seek to agree with a firm those steps the firm must take to address the Authority's concerns. However, where the Authority considers it appropriate to do so, it will exercise its formal powers under section 55L of the Act to impose a requirement to ensure such requirements are met. This may include where, amongst other factors, the Authority has serious concerns about a firm, or about the way its business is being or has been conducted (EG 8.2.3(1)), or is concerned that the consequences of a firm not taking the desired steps may be serious (EG 8.2.3(2)).
13. EG 8.3.1 states 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.
14. EG 8.3.2 states 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 need 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.

15. 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; 3) evidence that the firm has submitted to the Authority inaccurate or misleading information so that the Authority becomes seriously concerned about the firm's ability to meet its regulatory obligations; 4) circumstances suggesting a serious problem within a firm or with a firm's controllers that calls into question the firm's ability to continue to meet the threshold conditions.
16. 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: the extent of any loss, or risk of loss, or other adverse effect on consumers (EG 8.3.4(1)); and the nature and extent of any false or inaccurate information provided by the firm (EG 8.3.4(3))
17. EG 8.3.4(9) includes 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 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.