
FIRST SUPERVISORY NOTICE

To: **ICC Intercertus Capital Limited**

Reference Number: **763771**

Address: **Antheon 2
Monovoliko
Kato Polemidia
CY-4151
Limassol
Cyprus**

Date: **14 May 2021**

1 ACTION

- 1.1 For the reasons given below and pursuant to section 55L(3) of the Act, the Authority has decided to impose the following requirements on ICC Intercertus Capital Limited ("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 as is necessary to comply with these requirements.
 - 2) The Firm must not conduct any marketing activity to persons resident in the United Kingdom.
 - 3) By 17 May 2021, the Firm must display on all websites used by it in the course of providing regulated activities, including but not limited to www.everfx.com and www.eu.everfx.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: "ICC Intercertus Capital Limited, trading as EverFX, is not permitted to provide regulated financial services to residents of the United Kingdom."

- 4) By 17 May 2021, the Firm must 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: "ICC Intercertus Capital Limited, trading as EverFX, is not permitted to provide regulated financial services to residents of the United Kingdom."
- 5) By 18 May 2021, the Firm must notify all its clients who are resident in the United Kingdom by email that it is no longer able to provide investment services to them and will be taking all reasonable steps to return all balances held by the Firm on their behalf.
- 6) By 19 May 2021, the Firm must provide the Authority with a copy of the text used for the purposes of notifying clients under requirement 5) and a list of the email addresses to which such notifications were sent.
- 7) By 3pm BST on 21 May 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 1 June 2021.
- 8) The Firm must take all reasonable steps and use best endeavours to ensure that other members of the Group of which the Firm is part, including but not limited to, ICC Intercertus Capital (Cayman) Ltd and Aerarium Ltd:
 - a) immediately cease providing regulated financial services to clients who are resident in the United Kingdom;
 - b) immediately cease conducting marketing activity to persons resident in the United Kingdom;
 - c) notify all their clients who are resident in the United Kingdom by 18 May 2021 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;
 - d) close all open trading positions held by clients who are resident in the United Kingdom by 21 May 2021; and
 - e) return all positive cash balances held on behalf of clients who are resident in the United Kingdom by 1 June 2021.
- 9) By 24 May 2021, the Firm must notify the Authority in writing what steps have been taken by the Firm under requirements 1) to 8) and what the results of these steps have been.
- 10) From 31 May 2021, the Firm must provide further written notifications to the Authority every seven days of further steps taken under requirements 1) to 8) and the results of these steps unless and until notified by the Authority in writing that such notifications are no longer needed.
- 11) 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 24 May 2021 such that they can be provided to the Authority, or to a person named by the Authority, promptly on its request.

12) The Firm must take all reasonable steps and use best endeavours to ensure that other members of the Group of which the Firm is part, including but not limited to, ICC Intercertus Capital (Cayman) Ltd and Aerarium Ltd, secure and preserve all records and/or information (physical or electronic) relating to their regulated activities in respect of clients resident in the United Kingdom and retain them in a form and at a location such that they can be provided to the Authority, or to a person named by the Authority, promptly on its request.

13) By 24 May 2021, the Firm must notify the Authority in writing what steps have been taken by the Firm under requirement 12), what the results of these steps have been and, where ascertained, the location of the records referred to in requirement 12).

1.2 The 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.everfx.com and www.eu.everfx.com.

2.2 The Firm is part of a group of companies ("the EverFX 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 at least part of each of their operations are conducted from the same building, located in Limassol, Cyprus. Neither of the Overseas Firms has any permission to conduct regulated activities in the UK. The EverFX Group markets its trading services under a single brand: 'EverFX' and uses a common website, www.everfx.com.

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 Since January 2020, the Authority has received 76 complaints or expressions of concern about the activities of the EverFX Group. The complaints disclose serious misconduct by representatives of the EverFX Group, including the use of misleading financial promotions, failures to inform customers about the nature and risks of CFDs, applying pressure to invest additional funds, providing advice and direction on what trades to make and failing to allow customers to withdraw funds.

2.5 As a result of these activities, some customers have lost very significant sums of money.

2.6 The EverFX Group used the regulated status of the Firm as a mark of the group's legitimacy and trustworthiness. However, most of the customers who

complained had in fact been induced to transact with one of the Overseas Firms. This meant that customers did not have the same level of protection. Customers who complained to the Authority were frequently confused about the entity with which they had transacted and, on occasion, were misled as to the regulated status of the firm with which they were transacting by representatives of the EverFX Group.

- 2.7 In the circumstances, the Authority considers that the continuing provision of regulated services by the EverFX Group in respect of UK consumers presents unacceptable risks. As a result, the Authority considers that it is desirable to impose requirements on the Firm which prevent it from conducting regulated activities in respect of, and marketing its products to, UK consumers, ensures that the effect of these measures is brought to the attention of its current and potential future UK clients and requires it to take reasonable steps to ensure that the other members of the EverFX Group also cease conducting regulated activities in respect of UK consumers.
- 2.8 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 EverFX Group.
- 2.9 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 EverFX Group" means the group of companies, of which the Firm is part;

"the Firm" means ICC Intercertus Limited (FRN 763771), which trades as 'EverFX';

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

"the Overseas Firms" means ICC Intercertus Capital (Cayman) Ltd, a company registered in the Cayman Islands and Aerarium Ltd (formerly called ICC Intercertus Capital (Seychelles) Ltd and Fiscus Capital Seychelles Ltd), a company registered in the Seychelles;

"the Requirements" mean the requirements set out at paragraph 1.1 of this Notice;

"the RTC" means the Authority's Regulatory Transactions Committee;

"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 name 'EverFX'. 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 7 February 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.everfx.com and www.eu.everfx.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 EverFX Group

- 4.7 The Firm is part of the EverFX Group, a group of companies registered in a number of jurisdictions. The Overseas Firms, which are both registered overseas and regulated by their respective regulators, are also part of the EverFX Group. Neither of the Overseas Firms has any permission to conduct regulated activities in the UK.
- 4.8 One of the directors of the Firm is also a director of both of the Overseas Firms and at least part of the operations of each of the Overseas Firms, including their marketing and account managers, are conducted from the registered office of the Firm. The Firm and the Overseas Firms market themselves under a common brand and share a website, www.everfx.com. The content of the www.everfx.com website is such that a client transacting with the EverFX Group through it would not necessarily be aware with which firm he was transacting. Each of the Firm and the Overseas Firms also has its own website, though each of these websites has identical branding and practically identical content.

Complaints

- 4.9 Since January 2020, the Authority has received 76 complaints or expressions of concern from consumers about the business activities of the EverFX Group. Of these, 34 have been made in 2021, while the Firm was in the TPR.
- 4.10 These complaints present a consistent pattern by representatives of the EverFX Group of serious misconduct in the provision of services to UK consumers.
- 4.11 Many of the complainants reported contacting, or receiving contact from, the EverFX Group having been attracted by online advertisements. These advertisements were misleading about the nature of the financial products being marketed and the risks involved and, on occasion, used celebrities or trusted corporations to attract the interest of consumers.
- 4.12 Having registered their details as a result of these financial promotions, complainants reported being persuaded to open accounts with the EverFX Group. Consumers who complained to the Authority were frequently confused about the entity with which they had transacted and its regulated status. This is unsurprising since many of them used the www.everfx.com website which marketed the activities of the Firm and the Overseas Firms without specifying which firm was transacting. In some cases, statements from representatives of the EverFX Group misled consumers about the regulated status of the firm with which they were dealing.
- 4.13 Despite the Firm being the only firm in the EverFX Group which is permitted to conduct regulated activities in the UK, most of the complainants had been induced to transact with the Overseas Firms. Information provided by the EverFX Group suggests that approximately 95% of the UK clients of the EverFX Group have opened accounts with the Overseas Firms (rather than with the Firm).
- 4.14 On occasions, clients of the Overseas Firms were induced to sign declarations that they had approached one of the Overseas Firms of their own volition. These declarations were false in that they had been induced to deal with the EverFX Group after responding to financial promotions and the contact had been initiated by representatives of the EverFX Group.
- 4.15 Many of the consumers attracted by the EverFX Group's marketing materials were unclear as to the nature of the investments they were being persuaded to make and the risks attached to trading in CFDs. Representatives of the EverFX Group, who typically engaged with its clients by telephone, failed to ensure that they understood the true position.
- 4.16 After consumers opened trading accounts with the Overseas Firms, typically with small initial sums, the accounts of numerous complainants described how pressure was applied to invest greater and greater sums of money. Some clients had pressure exerted on them to obtain or use credit to make further investments. The frequency and consistency of these accounts demonstrate that this was a common and accepted means of the Overseas Firms' representatives' engagements with clients.
- 4.17 Thirteen complainants described how the Overseas Firms' representatives provided direction and instructions on the trades that clients should make. On occasion, this involved the use of screen sharing software so that the representative could view the client's screen.

- 4.18 Several complainants stated that the Overseas Firms failed to comply with requests to return funds to them. Some complainants described contacting the Overseas Firms using the Firm's contact details, indicating that the Firm has access to the client details of the Overseas Firms.
- 4.19 As a result of transacting with the Overseas Firms, some consumers lost very significant sums of money. Five consumers lost over £20,000, with four further consumers losing over £60,000.
- 4.20 The experiences of two consumers provide clear examples of the risks of dealing with the EverFX Group. Consumer A signed up to trade with the EverFX Group in July 2020 after seeing an advertisement about investing in a leading company. He made an initial small deposit and was then contacted by an account manager from one of the Overseas Firms. The account manager failed to explain the risks of trading CFD and directed Consumer A into making trades. The account manager pressurised Consumer A into making further deposits, despite being told by Consumer A that he could not afford it. As a result of dealing with the EverFX Group, Consumer A lost £30,000. Consumer A was also told that he would need to recover the losses in order to be able to close the account.
- 4.21 Consumer B registered with the EverFX Group after seeing a Facebook advertisement in April 2021. She was contacted by an account manager whom she told that she was a trading novice, wanted to invest to provide a steady income and did not want to risk the loss of her capital. Her account manager failed to inform her of the risks of trading CFDs. Both her account manager and another, subsequently assigned, account manager directed her in what trades to place and pressurised her to invest greater and greater sums of money, even encouraging her to borrow money to invest. Consumer B lost her entire investment, a total of £109,250.

5 FAILINGS

- 5.1 The regulatory provisions relevant to this First Supervisory Notice are set out in the Annex.
- 5.2 The Authority considers that the EverFX Group attracts clients using misleading financial promotions and, having attracted consumers, uses the regulatory status of the Firm as an indicator of the legitimacy and trustworthiness of the EverFX Group as a whole.
- 5.3 Despite this, once clients are attracted to the EverFX Group, they are commonly induced to transact with one of the Overseas Firms, thereby meaning that these clients do 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 is commonly not made clear to clients.
- 5.4 The nature of the connections between the Firm and the Overseas Firms, and the proportion of the UK clients of the EverFX 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 Clients who transact with the Overseas Firms have been subject to various forms of inappropriate conduct including:
- a) failing to assess the compatibility of the financial instruments with the needs of their clients;

- b) failing to provide appropriate information to clients with regard to the products and the risks of trading them;
 - c) pressuring customers to invest money; and
 - d) declining to action requests to return investment monies;
- 5.6 The Authority considers that the ongoing provision by the EverFX Group of regulated activities presents serious risks to the interests of UK consumers. As a result, the Authority has concluded that it is desirable to exercise its power to impose requirements to prevent the Firm from providing any further regulated services to UK consumers, thereby ensuring that the EverFX Group cannot use the ability of the Firm to legitimise the provision of regulated services by other members of the EverFX Group.
- 5.7 The Authority also considers it to be desirable to impose requirements to ensure that, as far as possible, all current and potential future clients of the EverFX 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 This action is taken to advance the Authority's consumer protection objective.
- 5.10 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 First Supervisory Notice was made by the RTC. The RTC is a committee of the Authority which takes certain decisions on behalf of the Authority.
- 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 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 **28 May 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

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 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).
- 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) at the same time as a reference is filed with the Tribunal.

Confidentiality and publicity

- 6.9 The Firm 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).
- 6.10 The Firm should note that section 391(5) of the Act requires the Authority, when this First Supervisory Notice takes effect (and this 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, direct line 020 066 5518) at the Authority.



Katherine Browne
Chair, Regulatory Transactions Committee

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.

8. COBS 3.5.3R provides that, in relation to MiFID business, a firm may treat a retail client as an elective professional client if:
- 1) The firm undertakes an adequate assessment of the expertise, experience and knowledge of the client that gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making his own investment decisions and understanding the risks involved;
 - 2) At least two of the following criteria are satisfied:
 - a) The client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters;
 - b) the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds €500,000;
 - c) the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged;
 - 3) the following procedure is followed:
 - a) the client must state in writing to the firm that it wishes to be treated as a professional client either generally or in respect of a particular service or transaction or type of transaction or product;
 - b) the firm must give the client a clear written warning of the protections and investor compensation rights the client may lose; and
 - c) the client must state in writing, in a separate document from the contract, that it is aware of the consequences of losing such protections.

The Enforcement Guide

9. 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.
10. 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.
11. 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.
12. 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.

13. 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.
14. 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.
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;..."*.
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:
 - "(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.”*