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## **FIRST SUPERVISORY NOTICE**

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**To:** **Monneo Ltd**

**Reference Number:** **802210**

**Address:** **64 North Row  
Mayfair  
London  
W1K 7DG**

**Date:** **5 April 2023**

### **1 ACTION**

1.1 For the reasons given in this First Supervisory Notice, and pursuant to regulation 12(1) of the Payment Services Regulations 2017, the Financial Conduct Authority has decided to vary the authorisation granted to Monneo pursuant to Part 2 of the PSRs by imposing the following Requirements on the Firm with immediate effect:

*Restriction on activities*

- a) Monneo must not (either directly or through any agents or other third parties), without the prior written consent of the Authority, carry out any payment services as defined by the PSRs.
- b) Monneo must cease to register or onboard any new customers. This applies to customers acquired directly or through any agents or other third parties.
- c) Monneo must ensure that all relevant funds (defined in the PSRs) are appropriately ringfenced in a designated safeguarding account or designated safeguarding accounts.

Requirement relating to Officer of the Firm

- d) Pursuant to Regulation 6(7)(b) of the PSRs, Monneo must remove from the Director any authority he has to make decisions on behalf of the Firm or the Agent or do anything further with or on behalf of the Firm.
- e) Monneo must conduct thorough due diligence on all directors of the Firm and all persons responsible for payment services and provide written confirmation to the Authority that it has done so and satisfy itself that each are of good repute and possess appropriate knowledge and experience to be responsible for providing payment services.

Notification requirements

- f) Monneo must provide to the Authority full details of all bank accounts and payment accounts, including safeguarding accounts, it holds or controls by 5pm Tuesday 11 April 2023.
- g) Monneo must by 5pm Thursday 13 April 2023 notify in writing all customers and the Agent of the imposition and effect of these Requirements (except for requirements d and e), in a form to be agreed in advance with the Authority.
- h) By 5pm pm Thursday 13 April 2023, the Firm must display, in a prominent place on its website <http://www.monneo.com> (and any other websites it controls), a notice setting out the terms and effects of these Requirements (except for requirements d and e), in a form to be agreed in advance with the Authority.
- i) Each fortnight, by 5pm Thursday, beginning 13 April 2023, Monneo must provide written confirmation to the Authority explaining whether it is in compliance with these Requirements, until such time as it is notified in writing by the Authority that it may cease to do so.

Retention and notification requirements

- j) The Firm must secure and preserve all records and/or information (physical or electronic) relating to payment, electronic money and digital services in their original form, or in a copy, provided it is identical to the source material. These must be retained in a form and at a location within the United Kingdom, to be notified to the Authority in writing by 5pm Tuesday 11 April 2023, such that they can be provided to the Authority, or to a person named by the Authority, promptly on its request.
- 1.2 These Requirements shall take immediate effect and remain in force unless and until varied or cancelled by the Authority (either on the application of the Firm or of the Authority's own volition).

## **2 REASONS FOR ACTION**

### **Summary**

- 2.1 One of the directors of the Firm, the Director, who the Firm identifies as a person responsible for the management of payment services pursuant to regulation 6(7)(b) of the PSRs, was found to be in contempt of court and was made the subject of an arrest warrant in September 2020. This was owing to the Director's failure to comply with the terms of a freezing injunction. The Director continues to be a director of the Firm, and neither the Firm nor the Director have informed the Authority about the court judgment or the warrant for his arrest pursuant to

regulation 37 of the PSRs, and in breach of Principle 11 of the Principles. The Firm is therefore failing to satisfy the Authority that the directors and persons responsible for the management of the Firm and the persons responsible for the management of payment services are of good repute, in accordance with regulation 6(7)(b) of the PSRs.

- 2.2 It also appears that the Firm is providing payment services other than in accordance with the authorisation granted to it. This is grounds to vary the firm's permissions, pursuant to Regulation 12(1)(b) of the PSRs and Regulation 21 of the PSRs.
- 2.3 The Firm also appears to be failing to comply with Regulation 33 of the PSRs, which states that any payment account held by an authorised payment institution must be used only in relation to payment transactions.
- 2.4 As a result, the Authority considers it necessary to impose the Requirements in order to manage the risk posed by the Firm having a person responsible for payment services who appears not to be of good repute, and the Firm acting outside of the scope of its permissions.

### **3 DEFINITIONS**

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

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

"the Agent" means the single agent of the Firm;

"API" means Authorised Payment Institution, a firm authorised under the PSRs to provide Payment Services;

"AEMI" means Authorised Electronic Money Institution;

"the Authority" means the Financial Conduct Authority;

"conditions of authorisation" mean the minimum conditions under the PSRs which a firm must meet in order to be authorised to provide payment services;

"the Director" means one of Monneo's directors;

"EG" means the Authority's Enforcement Guide;

"IBAN" means International Bank Account Number;

"the January 2023 VOP Application" means the variation of permission application the Firm submitted to the Authority on 23 January 2023 to add further PSR permissions;

"Monneo"/"the Firm" mean Monneo Ltd;

"Principles" means the Authority's Principles for Businesses which are general statements of the fundamental obligations of firms under the regulatory system

"the PSRs" means the Payment Services Regulations 2017;

"Requirements" means the requirements set out at paragraph 1.1 (a)-(j) of this First Supervisory Notice;

“SPI” means Small Payment Institution; and

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

## **4 FACTS AND MATTERS**

### **Background**

- 4.1 The Firm was incorporated on 29 March 2016 as E-Pay International Ltd. It changed its name to Monneo Ltd on 10 February 2021.
- 4.2 Monneo is an API with an office address in Mayfair, London. It was initially registered with the Authority as an SPI on 03 January 2017. It has been authorised as an API since 25 May 2018.
- 4.3 The Firm has permission to provide money remittance and for executing payment transactions (with no credit line).
- 4.4 The Director has been a director of the Firm since prior to 25 May 2018, being the date of its authorisation as an API.
- 4.5 On 15 March 2021, the Firm applied to be an AEMI. The Firm later withdrew the application.
- 4.6 On 23 January 2023, the Firm submitted the January 2023 VOP Application, seeking to add the following permissions: (i) cash placement on a payment account; and (ii) cash withdrawal from a payment account. Accompanying the January 2023 VOP Application, the Firm provided an up-to-date business plan. This application is currently being assessed by the Authority's Authorisations Division.
- 4.7 The Agent has been the Firm's only agent since 11 January 2022. The Agent is owned by Monneo and its sole director is the Director.

### **Lack of fitness of the Director and non-disclosure**

- 4.8 In late 2022, the Authority became aware of information in the public domain about the Director having been the defendant in multiple, connected court cases. In February 2020, the Director was the defendant in a case relating to a dispute about an allegedly unpaid loan. The Director's role at the Firm was identified in the relevant Court papers.
- 4.9 In the 17 April 2020 judgment in the case, the Deputy Judge concluded that the claimants were entitled to recover the majority of the sums sought from the defendant, plus interest, and gave the Director 14 days to make the required payments. In the judgment, the Deputy Judge found that the Director had been a wholly unsatisfactory and unreliable witness.
- 4.10 In September 2020, the Court issued a judgment following an application that the Director be found in contempt of Court for failing to comply with the terms of a freezing injunction made on 23 July 2020. The Director was found to be in contempt of court and Judge held that "the contempt in this case is so serious that nothing less than a custodial sentence will do". The Director was sentenced to a term of 9 months' imprisonment and a warrant for committal was issued.
- 4.11 The Authority has not been informed by either Monneo or the Director of these court judgments, the sentence for the Director or the arrest warrant, despite having had periodic engagement with the Authority in the period since.

## The Firm acting outside of its permission

- 4.12 Based on the regulatory permissions the Firm holds (as set out at paragraph 4.3 above) Monneo is able to transfer funds from or to its customers, enabling them to make or receive payments but it is not currently authorised to provide payment accounts to its customers.
- 4.13 In September 2022, upon proactive review of Monneo's website, the Authority identified descriptions of Monneo's product and service offering that appeared not to align with the regulatory permissions the Firm holds.
- 4.14 Monneo's website includes the following descriptions of its services and announcements of new offerings:
- *"Monneo connects thousands of online merchants to a network of EU and international banks to provide virtual IBANs (International Bank Account Numbers) and banking services".*
  - *"Monneo, the complete end to end payment ecosystem provider, is leading the way for Banking as a Service (BaaS)...".*
  - *"Monneo has added a new European bank partner to its banking network, meaning it can now offer multi-currency IBAN accounts to customers. The updated service allows merchants to receive international payments in more currencies, whilst still retaining the ability to securely store all funds in one centralised account".*
  - *"Monneo is excited to announce the launch of its new merchant account / card acquiring service".*
  - *"We are a virtual IBAN provider & merchant account provider...".*
- 4.15 Further, in the business plan the Firm supplied as part of the January 2023 VOP Application, the Firm explained that it currently has "two live payment services products to which clients can sign-up: (A) vIBANs and a user interface to manage incoming and outgoing domestic and international payments; and (B) B2B payments (money remittance)".
- 4.16 The Authority reviewed the transactional activity of a sample of Monneo's customers. The analysis shows that payments are being made into accounts without accompanying onward payment orders and that the accounts are being used for more than just payment transactions. The Authority found that customers were holding funds in the account for months at a time, allowing large balances to accumulate before making one or two large outward payments. One of the four customers held a static balance in the account of over £100,000, without making any transactions, for a period of over eight months. This is an indicator that customers are using the accounts to store value over time, in the manner of an e-money account or deposit account.
- 4.17 Even if the Firm was authorised to provide payment accounts (for example if the January 2023 VOP Application was approved), the Firm would be prohibited from using those accounts for anything other than payment transactions under Regulation 33 of the PSRs. Therefore, payment accounts cannot be used for accepting deposits from users (unlike, for example, bank current accounts or savings accounts, or as a store of value (unlike an e-money account)). The Authority's perimeter guidance (PERG 15.1) states that the consequence of this is that payment institutions cannot hold funds without a payment order for onward

transfer and funds cannot be held indefinitely.

- 4.18 The Firm's permission extends only to providing money remittance and for executing payment transactions (with no credit line), and so the Authority has serious concerns that it is acting outside of those permissions.

## **5 FAILINGS AND RISKS IDENTIFIED**

- 5.1 The regulatory provisions relevant to this First Supervisory Notice are set out in the Annex.
- 5.2 In view of the issues identified at 5.3 – 5.9 below, the Authority considers the Requirements are appropriate to manage the risk posed by the Firm. The Authority considers that these Requirements should be imposed immediately.

### **Lack of fitness of the Director and non-disclosure**

- 5.3 From the facts and matters described above, and having regard to its regulatory objectives, it appears to the Authority necessary to vary the Firm's authorisation pursuant to regulation 12(1)(a) as it considers that Monneo no longer meets the condition for authorisation set out in regulation 6(7)(b) of the PSRs.
- 5.4 Due to the conduct of the Director (outlined at paragraphs 4.8 - 4.11 above), the Authority is not satisfied that the Director is a fit and proper person. Therefore, the Firm is failing to satisfy the Authority that the directors and persons responsible for the management of the Firm and the persons responsible for the management of payment services are of good repute, in accordance with regulation 6(7)(b) of the PSRs.
- 5.5 Further, due to the lack of disclosure of the Director's involvement in the above-mentioned court proceedings (outlined at paragraphs 4.8 - 4.11 above), the Firm failed to provide the FCA with details of a significant change in circumstances relevant to its fulfilment of the conditions for authorisation, as required under the PSRs at regulation 37.
- 5.6 The Firm has been subject to the Authority's Principles for Businesses (the "Principles") since it has been regulated by the Authority. The Firm is therefore required, pursuant to Principle 11, to deal with the Authority in an open and cooperative way and to disclose to the Authority appropriately anything relating to the Firm of which the Authority would reasonably expect notice. Due to the lack of disclosure of the Director's involvement in the above-mentioned court proceedings (outlined at paragraphs 4.8 - 4.11 above), the Authority has very significant concerns that the Firm may have failed to comply with its obligations under Principle 11.

### **The Firm acting outside of its permission**

- 5.7 As summarised at paragraphs 4.13 – 4.18 above, the Authority has very serious concerns that Monneo has been providing its customers with payment accounts and associated IBANs, despite not currently having the appropriate permissions to provide payment accounts. The Firm also appears to be advertising card acquiring and card issuing services, despite not having the appropriate permissions to provide these services. Therefore, the Authority considers it necessary to vary the Firm's authorisation, by way of imposing the Requirements, pursuant to Regulation 12 (1)(b) of the PSRs.
- 5.8 The Authority also has serious concerns that as the Firm (an API) appears to have

carried on a payment service in the UK, or has purported to do so, other than in accordance with its authorisation, it has contravened the requirement imposed on it under the PSRs at Regulation 21.

- 5.9 Further, the Authority considers that the Firm may be failing to comply with Regulation 33 PSRs (requiring that payment accounts held by an API are only used in relation to payment transactions).

## **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 according to DEPP 2.3.7G and DEPP 4.1.7G.
- 6.2 The decision which gave rise to the obligation to give this First Supervisory Notice was made by an Authority staff member under executive procedures.
- 6.3 This First Supervisory Notice is given to Monneo under regulation 12(6) of the PSRs and in accordance with regulation 12(7) of the PSRs.
- 6.4 The following statutory rights are important.

### **Representations**

- 6.5 The Firm the right to make written representations to the Authority (whether or not it refers this matter to the Tribunal). The Firms may also request to make oral representations but the Authority will only consider this in exceptional circumstances according to DEPP 2.3.1AG. The deadline for providing written representations and notifying the Authority that the Firm wishes to make oral representations is 24 April 2023 or such later date as may be permitted by the Authority. Any notification or representations should be sent to:

Supervision, Policy and Competition Decision Making Secretariat  
The Financial Conduct Authority  
12 Endeavour Square  
London  
E20 1JN

Email: [SPCDecisionMakingSecretariat@fca.org.uk](mailto:SPCDecisionMakingSecretariat@fca.org.uk) and [louise.marfany@fca.org.uk](mailto:louise.marfany@fca.org.uk)

### **The Tribunal**

- 6.6 The Firms have 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, 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.
- 6.7 A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by or on behalf of the Firms and filed with a copy of this First Supervisory Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, 5<sup>th</sup> Floor, Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email: [uttc@hmcts.gsi.gov.uk](mailto: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 The Firm 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 the SPC Decision Making Secretariat ([SPCDecisionMakingSecretariat@fca.org.uk](mailto:SPCDecisionMakingSecretariat@fca.org.uk)).

### **Confidentiality and publicity**

- 6.10 Paragraph 10 of Schedule 6 to the PSRs provides that section 391 of the Act shall apply to supervisory notices given under regulation 11(6) of the Regulations. Section 391(5) requires the Authority, when the First Supervisory Notice takes effect (and this First Supervisory Notice takes immediate effect), to publish such information about the matter as it considers appropriate.
- 6.11 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).

### **Authority contacts**

- 6.12 Any questions regarding the executive procedures decision-making process should be directed to the SPC Decision Making Secretariat ([SPCDecisionMakingSecretariat@fca.org.uk](mailto:SPCDecisionMakingSecretariat@fca.org.uk)).

## **Annex**

### **RELEVANT STATUTORY PROVISIONS**

1. By sections 1B to 1H of the Act, the Authority has operational objectives which include securing an appropriate degree of protection for consumers and protecting and enhancing the integrity of the UK financial system.
2. Part 1 of Schedule 1 of the PSRs:  
"Subject to Part 2, the following, when carried out as a regular occupation or business activity, are payment services—  
[...]  
(c) the execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider—  
(i) execution of direct debits, including one-off direct debits;  
(ii) execution of payment transactions through a payment card or a similar device;  
(iii) execution of credit transfers, including standing orders;  
[...]  
(f) money remittance;"
3. Regulation 2 of the PSRs
  - 'Money remittance', under "means a service for the transmission of money...without any payment accounts being created..."
  - 'Payment account' means "an account held in the name of one or more payment service users which is used for the execution of payment transactions".
4. Regulation 6 of the PSRs details the conditions for authorisation which an AMI must meet. These include:  
  
(7) The applicant must satisfy the Authority that—  
(a) any persons having a qualifying holding in it are fit and proper persons having regard to the need to ensure the sound and prudent conduct of the affairs of an authorised payment institution; and  
(b) the directors and persons responsible for the management of its electronic money and payment services business are of good repute and possess appropriate knowledge and experience to issue electronic money and provide payment services;
5. Regulation 7(1) of the PSRs provides that the Authority may include in the authorisation of an AMI such requirements as it considers appropriate. Regulation 7(2) of the PSRs provides that a requirement may, in particular, be imposed so as to require the person concerned to (a) take a specified action; (b) refrain from taking a specified action.
6. Regulation 8(c) of the PSRs provides that the Authority may, on the application of an AMI vary that person's authorisation by, among other things, imposing a requirement such as may, under regulation 7 of the PSRs, be included in an authorisation.
7. Regulation 11(2) of the PSRs provides that a variation under this regulation may be expressed to take effect (a) immediately, if the notice given under paragraph (6) states that that is the case or (b) on such date as may be specified in the notice. Regulation 11(3) of the Regulations provides that a variation may be expressed to take effect immediately or on a specified date only if the Authority, having regard to the ground on which it is exercising the power under paragraph (1), reasonably

considers that it is necessary for the variation to take effect immediately or, as the case may be, on that date.

8. Regulation 11(6) of the PSRs provides that, where the Authority proposes to vary a person's authorisation under this regulation, it must give the person notice
9. Regulation 12(1)(a) and Regulation 12(1)(a) of the PSRs provides that the Authority may vary a person's authorisation in any of the ways mentioned in regulation 8 if it appears to the Authority that— "*(a) the person no longer meets, or is unlikely to continue to meet, any of the conditions set out in regulation 6(4) to (9) (conditions for authorisation)*"; and "*(b) the person has provided a particular payment service or payment services other than in accordance with the authorisation granted to it*".
10. Regulation 21 of the PSRs states: "*If an authorised payment institution, a small payment institution or a registered account information service provider carries on a payment service in the United Kingdom, or purports to do so, other than in accordance with an authorisation or registration granted to it by the FCA, it is to be taken to have contravened a requirement imposed on it under these Regulations.*"
11. Regulation 33 of the PSRs states that "*Any payment account held by an authorised payment institution or a small payment institution must be used only in relation to payment transactions*", where a 'payment transaction' is defined in regulation 2 as "*an act, initiated by the payer or payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and payee*".
12. Regulation 37 states:

(1) Where it becomes apparent to an authorised payment institution or a small payment institution that there is, or is likely to be, a significant change in circumstances which is relevant to—

(a) in the case of an authorised payment institution—

(i) its fulfilment of any of the conditions set out in regulation 6(4) to (9) (conditions for authorisation) and, if applicable, the requirement in regulation 22(1) (capital requirements) to maintain own funds;

(ii) the payment services which it seeks to carry on in exercise of its passport rights; [..]

it must provide the FCA with details of the change without undue delay, or, in the case of a substantial change in circumstances which has not yet taken place, details of the likely change a reasonable period before it takes place.

13. Section 391 of the Act, as varied by paragraph 10 of Schedule 6 to the PSRs, provides that:
  - (a) When a supervisory notice takes effect, the Authority must publish such information about the matter to which the notice relates as it considers appropriate.
  - (b) 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.
  - (c) Information is to be published under this section in such manner as the Authority considers appropriate."

## **RELEVANT HANDBOOK PROVISIONS**

14. The Authority's policy in relation to its enforcement powers is set out in the Enforcement Guide (EG), certain provisions of which are summarised below.
15. EG 19.20 outlines the Authority's approach to enforcing the provisions of the PSRs. EG 19.20.5 provides that the PSRs, for the most part, mirror the Authority's investigative, sanctioning and regulatory powers under the Act and that the Authority has decided to adopt procedures and policies in relation to the use of those powers akin to those it has under the Act.
16. The Authority considers that the powers under regulation 12(1) of the PSRs are similar to those under sections 55J and 55L of the Act and that the provisions of EG 8 "Variation and cancellation of permission and imposition of requirements on the FCA's own initiative and intervention against incoming firms" are applicable.

### Imposing requirements on the Authority's own initiative

17. 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)).
18. EG 8.2.3 states that in the course of its the Authority 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)).

### Use of the own-initiative powers in urgent cases

19. 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.
20. 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.
21. 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.

22. 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:

EG 8.3.4 (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 likely it is that the FCA's exercise of own-initiative powers will be appropriate, to protect the consumers' interests.

EG 8.3.4 (2) The extent to which customer assets appear to be at risk. Exercise of the FCA's own-initiative power may be appropriate where the information available to the FCA suggests that customer assets held by, or to the order of, the firm may be at risk.

EG 8.3.4 (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.

23. 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.

#### PRIN

24. The purpose of the Principles is set out at PRIN 1.1.2: *"The Principles are a general statement of the fundamental obligations of firms and the other persons to whom they apply under the regulatory system. They derive their authority from the FCA's rule-making powers as set out in the Act, including as applied by the Payment Services Regulations and the Electronic Money Regulations, and reflect the statutory objectives"*.
25. PRIN 3.1.1A states that PRIN applies to (1) to an electronic money institution, an authorised payment institution, a small payment institution or a registered account information service provider.
26. Principle 11 states that: *"A firm must deal with its regulators in an open and cooperative way, and must disclose to the FCA appropriately anything relating to the firm of which that regulator would reasonably expect notice"*.

#### PERG

27. PERG 15.1, Q5. *"[A] payment institution cannot hold funds for a payment service user unless accompanied by a payment order for onward transfer (whether to be executed immediately or on a future date). Funds cannot be held indefinitely. They should not be held for longer than is necessary for operational and technical reasons"*.