
FIRST SUPERVISORY NOTICE

To: **Thestral Financial Services Ltd**

Reference Number: **925090**

Address: **127 High Road
Loughton
Essex
IG10 4LT**

Date: **28 January 2022**

1 ACTION

1.1 For the reasons given in this First Supervisory Notice, and pursuant to regulations 12(1) and 15 of the PSR, the Authority has decided to vary with immediate effect the registration granted to Thestral to remove the following payment services it provides:

- 1) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
- 2) Executing payment transactions (no credit line).

1.2 The effect of the Variation is that Thestral cannot provide any payment services.

2 REASONS FOR ACTION

Summary

2.1 The PSR permits the Authority to vary a firm's registration pursuant to regulation 12(1)(a) if it considers that the firm no longer meets, or it is unlikely to continue to meet, any of the conditions for registration set out in regulation 14(4) to (11) of the PSR. The Authority is also permitted to vary a firm's registration if it is desirable in order to protect the interests of consumers pursuant to regulation 12(1)(d) of the PSR.

2.2 The Authority has identified serious concerns relating to Thestral that appears to demonstrate it is not fit and proper and poses a significant risk of harm to consumers. Specifically:

- 1) Thestral through its director appears to be linked to firms that the Authority has taken regulatory action against, either through the imposition of requirements or variation of permissions to stop them conducting regulated activities, including:
 - a) Cavendish to whom the Authority issued a First Supervisory Notice on 2 August 2021 for carrying out investment activities outside the scope of its permissions and misleading investors over the extent of its regulated status. Information filed on Companies House records that Thestral and Cavendish's respective directors are shareholders of another firm, of which Thestral's director is also the sole approved person, director and significant controller.
 - b) Sentor to whom the Authority issued a First Supervisory Notice on 8 September 2021 for facilitating investments in companies that the Authority has warned about for engaging in unauthorised business. Information filed on Companies House shows that Thestral and Sentor's respective directors have a linked history through a previous company.
 - c) Grosvenor to whom the Authority issued a First Supervisory Notice on 30 November 2021 due to its apparent links to firms that the Authority has warned about for undertaking unauthorised business, and for providing misleading information about its controllers and intended business at authorisation. Grosvenor's director previously applied to the Authority for approval to become an officer at Thestral.
 - d) Renaissance to whom the Authority issued a First Supervisory Notice on 7 December 2021 due to its connections to firms that may not be fit and proper, and for failing to provide accurate information about its controllers and intended business at authorisation. Information filed on Companies House shows that Renaissance's director was an associate of Thestral. Renaissance's director also previously applied to the Authority for approval to become an officer at Thestral.

Given Thestral's apparent links through its director to these firms, there are serious concerns that Thestral may be seeking to misuse its status as a registered small payment institution to take advantage of consumers.

- 2) Thestral is failing to deal with the Authority in an open and cooperative way:
 - a) The Authority is unclear on the identity of Thestral's director. Thestral has failed to respond to the Authority's requests to provide proof of identity for its director.
 - b) Thestral has not submitted any regulatory reports since it became registered on 8 April 2020. In particular, two reports are overdue.
 - c) Thestral has failed to respond to three information requirements issued under section 165 of the Act requiring clarity on its links to other firms and about its current business model and activities.

- 2.3 The Authority considers that Thestral no longer meets, or it is unlikely to continue to meet, the condition for registration in regulation 14(7) of the PSR because Thestral through its director appears to be connected to firms that have been the subject of regulatory actions (as summarised at 1.4(1)). Thestral also appears to have breached Principle 11 (Relations with regulators) of the Authority's Principles for Businesses (as summarised at 1.4(2)). Supervision considers that Variation of Thestral's registration with immediate effect is desirable to protect consumers.

3 DEFINITIONS

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

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

"Authority" means the Financial Conduct Authority;

"Cavendish" means Cavendish Incorporated Ltd;

"DEPP" means the Decision Procedure and Penalties Manual in Authority's online handbook of rules and guidance (as in force from time to time);

"Fabcourt" means Fabcourt Developments Ltd;

"Grosvenor" means Grosvenor Associates Ltd;

"PSD" means Payment Services Directive;

"PSR" means the Payment Services Regulations 2017;

"Renaissance" means Renaissance Advisory Ltd;

"Sentor" means Sentor Solutions Commercial Ltd;

"Texmoore" means Texmoore Limited;

"Thestral" means Thestral Financial Services Ltd;

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

"Variation" means the variation of Thestral's registration set out in paragraph 1.1. above.

4 FACTS AND MATTERS

Background

- 4.1 Thestral was incorporated on 26 March 2020. It was registered on 8 April 2021 as a small payment institution under the PSD to provide payment services. Thestral may operate payment accounts and execute payment transactions.
- 4.2 Thestral is managed by one individual who is responsible for payment services at the firm. According to Companies House records he is the sole director and significant controller of Thestral.

Failings and risks identified

Thestral's links to other firms

- 4.3 Thestral through its director appears to have connections to firms that the Authority has taken regulatory action against. These firms were all authorised as limited permission credit brokers. The Authority has either imposed requirements or varied the permissions of these firms to stop them conducting regulated activities.

Links to Cavendish

- 4.4 The Authority issued a First Supervisory Notice to Cavendish on 2 August 2021 for:

- 1) Failing to conduct its affairs in an appropriate manner having due regard to the interests of consumers. Cavendish made misleading statements to consumers to influence their investment decisions and provided investment services outside the scope of its permitted regulated activities.
- 2) Failing to comply with requirements imposed by the Authority. Cavendish did not provide accurate information to the Authority about issues impacting its business or respond to the Authority's communications.

- 4.5 Information filed on Companies House records that Thestral and Cavendish's respective directors are shareholders of another firm, of which Thestral's director is also the sole approved person, director and significant controller.

- 4.6 On 25 January 2021, Firm A filed on Companies House a confirmation statement. This listed Cavendish's director and Thestral's director as shareholders of Firm A as at 8 December 2020. The Financial Services Register records that Firm A has been managed by Thestral's director since 13 January 2020. Information filed on Companies House also records that he is the sole director and significant controller of Firm A.

Links to Sentor

- 4.7 The Authority issued a First Supervisory Notice to Sentor on 8 September 2021 for:

- 1) Facilitating consumer investments in Texmoore and Fabcourt, companies that the Authority has warned about for engaging in unauthorised business. Sentor provided investment services beyond its permissions and misled consumers about its regulated status.
- 2) Failing to comply with requirements imposed by the Authority. Sentor provided misleading information about its involvement with Texmoore and Fabcourt, and failed to respond to the Authority's further communications.

- 4.8 Information filed on Companies House shows that Thestral and Sentor's respective directors have a linked history through a previous company. According to Companies House records, Sentor's director was associated with Firm B from 6 February 2020 as the director until 10 March 2020, and the significant controller until 23 March 2020. Thestral's director became the significant controller of Firm B on 1 March 2020, when Sentor's director was still Firm B's director and significant controller.

Links to Grosvenor

- 4.9 The Authority issued a First Supervisory Notice to Grosvenor on 30 November 2021 due to:
- 1) Its apparent links to firms that may not be fit and proper and which the Authority has warned about for undertaking unauthorised business, including Texmoore and Fabcourt.
 - 2) Failing to engage with the Authority in an open and cooperative way. Grosvenor provided misleading information about its controllers and intended business at authorisation and failed to respond to the Authority's information requirements.
- 4.10 Grosvenor's director previously applied to the Authority for approval to become an officer at Thestral. On 8 April 2020, Thestral submitted a PSD individual application for Grosvenor's director to be approved as a non-executive director or manager at Thestral, although this was withdrawn before approval. The PSD individual application form was signed on behalf of Thestral by its director.

Links to Renaissance

- 4.11 The Authority issued a First Supervisory Notice to Renaissance on 7 December 2021 due to:
- 1) Its apparent connections to firms that may not be fit and proper and which the Authority has taken regulatory action against, including Grosvenor.
 - 2) Failing to deal with the Authority in an open and cooperative manner. As with Grosvenor, Renaissance provided inaccurate information about its controllers and intended business at authorisation and did not respond to the Authority's communications seeking clarity on its business model and activities.
- 4.12 Information filed on Companies House shows that Renaissance's director was an associate of Thestral. According to Companies House records, Renaissance's director was associated with Thestral from 26 March 2020 as a director until 4 May 2020, and a significant controller until 1 May 2020. Thestral's director was also recorded on Companies House as a director and significant controller on 26 March 2020, the same date as Renaissance's director.
- 4.13 Renaissance's director also previously applied to the Authority for approval to become an officer at Thestral. On 22 February 2020, Thestral submitted a PSD individual application for Renaissance's director to be approved as an executive director at Thestral, although this was withdrawn before approval. The PSD individual application form was signed on behalf of Thestral by its director.
- 4.14 On the same date, Thestral submitted a PSD individual application for its director to be approved as an executive director. The PSD individual application form was signed on behalf of Thestral by Renaissance's director.

Thestral's engagement with the Authority

Failure to provide proof of director's identity

- 4.15 Thestral also appears to be connected to Sentor through a potentially associated company with a similar name. According to Companies House records for Firm

C, Thestral's director was its significant controller between 1 November 2019 and 1 June 2020, and a director from 1 June 2020 until 31 January 2021. However, the record of officers on Companies House for Firm C does not show a ceased directorship for Thestral's director.

- 4.16 The Authority has separately received information indicating that Thestral's director sought to open an account with a third party but was unable to pass the identity verification process. It is alleged that he attempted three times to pass the checks by using a fake photo instead of supplying a "selfie" that was required.
- 4.17 Given the indications that the identity of Thestral's director may have been misused, the Authority has sought to verify that he is a genuine individual. In the Authority's emails on 10 December 2021 and 20 December 2021, Thestral was asked to provide its availability for a video meeting, as well as proof of identity for its director in the form of:
- 1) A current photo identification (such as a passport or driving licence).
 - 2) A selfie taken after receipt of the emails or later with a hand-held written note with the date on which the photo was taken.
- 4.18 The Authority remains unclear on the identity of Thestral's director. Thestral has failed to respond to the Authority's requests for a video meeting and to provide proof of identity for its director. The Authority has also attempted to contact Thestral's director by telephone on five occasions using two different contact numbers but has been unable to reach him. The Authority has been unable to see or speak to Thestral's director directly to verify his identity.

Failure to submit regulatory reports

- 4.19 Thestral has not submitted any regulatory reports since it became registered on 8 April 2020. Thestral was due to submit two quarterly reports covering the period between 1 July and 30 September 2021 by 1 November and 31 December 2021. Both reports are overdue and remain outstanding.
- 4.20 In order to ascertain the appropriateness of Thestral maintaining its registration as a small payment institution, the Authority wrote to Thestral on 9 December 2021, requiring it to describe its current business model, and confirm whether it had undertaken any payment services activity and used its status as a small payment institution in the last 12 months.
- 4.21 Thestral did not respond to the Authority's letter of 9 December 2021 or subsequent information requirements (see below). The Authority remains unclear on what activities Thestral has conducted since it became registered.

Failure to respond to information requirements

- 4.22 On 9 December 2021, the Authority sent Thestral an initial information requirement under section 165 of the Act for information about its links to a list of firms, business model and activities, with a response deadline of 14 December 2021. This was sent to its postal address as recorded on the Financial Services Register. The accompanying email to Thestral on 10 December 2021 also asked it to provide its availability for a video meeting. No response was received.
- 4.23 On 15 December 2021, the Authority sent Thestral a second information requirement under section 165 of the Act. This was sent to its postal address

and email address. This stated that the Authority had not received a response to the previous information requirement and was requiring the same information again. The Authority also drew attention to the consequences of failure to reply without reasonable excuse and set a response deadline of 17 December 2021. No response was received.

- 4.24 On 20 December 2021, the Authority sent a third information requirement to Thestral under section 165 of the Act. This was sent to its postal address and email address. This letter repeated that the Authority had not received a response to the previous two information requirements and was requiring the same information again. It reiterated the consequence of failure to comply and set a response deadline of 23 December 2021. The email also requested Thestral to provide its availability for a video meeting on 23 or 24 December 2021. No response was received.
- 4.25 The Authority has attempted to call Thestral on five occasions through the phone number listed on the Financial Services Register and mobile number for its director, twice on 16 December 2021, once on 4 January 2022 and twice on 5 January 2022. On each occasion, the calls did not connect and the number listed for Thestral's director registered as unavailable.
- 4.26 In addition, the Authority has asked Thestral to provide its availability to attend a video meeting on two occasions. Thestral did not respond to these requests.

5 CONCLUSION

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

Analysis of failings and risks

Conditions for registration

- 5.2 The Authority has serious concerns about Thestral's compliance with the conditions for registration. A firm is required to meet the conditions set out in regulation 14(4) to (11) of the PSR at registration and on a continuing basis in order to provide payment services.
- 5.3 The Authority considers that Thestral is no longer, or is unlikely to continue, meeting regulation 14(7). Thestral through its director appears to have connections to four firms that may not be fit and proper:
- 1) Information filed on Companies House records that Thestral and Cavendish's respective directors are shareholders of another firm, of which Thestral's director is also the sole approved person, director and significant controller.
 - 2) Information filed on Companies House shows that Thestral and Sentor's respective directors have a linked history through a previous company.
 - 3) Grosvenor's director previously applied to the Authority for approval to become an officer at Thestral.
 - 4) Information filed on Companies House shows that Renaissance's director was an associate of Thestral. Renaissance's director also previously applied to the Authority for approval to become an officer at Thestral.

5.4 The Authority is also unclear on the identity of Thestral's director. Thestral has failed to respond to the Authority's requests to provide proof of identity for its director.

5.5 On the basis of the facts and matters set out, it appears to the Authority that it is desirable to exercise the power under regulation 12(1)(a) of the PSR.

Consumer protection

5.6 The Authority considers that Thestral may be part of a network of firms that obtained authorisation for credit broking but have been conducting, or intending to conduct, investment activities beyond the scope of their permissions which could expose consumers to the risk of significant loss.

5.7 Thestral appears to have links to Cavendish and Sentor. These firms have engaged in investment activities without relevant permissions and misled consumers about the extent of their regulated status. Thestral also appears to be connected to Grosvenor and Renaissance. They have been the subject of regulatory action due to their apparent links to firms the Authority has warned about for engaging in unauthorised business or which may not be fit and proper, and for failing to provide accurate information about their controllers and intended business at authorisation. Given Thestral's apparent links through its director to these firms, there are serious concerns that Thestral may also be seeking to misuse its status as a registered small payment institution to take advantage of consumers potentially by:

- 1) Making misleading statements to consumers about its regulated status to provide investment services due to the fact it has an entry on the Financial Services Register.
- 2) Facilitating payments to the connected firms engaging in investment activities without relevant permissions.

5.8 In addition, Thestral is not engaging with the Authority in an open and cooperative manner or complying with the Authority's requirements in potential breach of Principle 11 (Relations with regulators) because it has failed to:

- 1) Respond to the Authority's requests to provide proof of identity for its director.
- 2) Submit at least two regulatory reports which are overdue.
- 3) Respond to three further information requirements issued under section 165 of the Act.

5.9 Thestral's actions to date cast serious doubts on its ability and willingness to observe regulatory requirements and demonstrate that it poses a significant risk of harm to consumers.

5.10 On the basis of the facts and matters set out, it appears to the Authority that it is desirable to exercise the power under regulation 12(1)(a) and (d) of the PSR.

Timing and duration of the Requirements

5.11 The Authority considers it is necessary to impose the Variation to take immediate effect given the seriousness of the risks and the need to protect consumers. The Authority has identified the following concerns:

- 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) Circumstances suggesting a serious problem within a firm or with a firm's controllers (EG 8.3.3(4)).
- 5.12 The Authority will consider the full circumstances of each case when it decides whether an urgent variation is appropriate. The Authority has identified the following relevant factors:
- 1) The extent of any loss, or risk of loss, or other adverse effect on consumers (EG 8.3.4(1)).
 - 2) 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 (EG 8.3.4(4)).
 - 3) The impact that use of the Authority's own-initiative powers will have on the firm's business and on its customers (EG 8.3.4(9)).
- 5.13 The Authority considers that it is necessary for the Variation 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 according to DEPP 2.3.7G and DEPP 4.1.7G.
- 6.2 This First Supervisory Notice is given to Thestral under regulation 12(6) of the PSR and in accordance with regulation 12(7) of the PSR.
- 6.3 The following statutory rights are important.

Representations

- 6.4 Thestral has the right to make written representations to the Authority (whether or not it refers this matter to the Tribunal). Thestral 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 Thestral wishes to make oral representations is 11 February 2022 or such later date as may be permitted by the Authority. Any notification or representations should be sent to David Watkins (david.watkins@fca.org.uk) and the SPC Decision Making Secretariat (SPCDecisionMakingSecretariat@fca.org.uk).

The Tribunal

- 6.5 Thestral has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. The Tax and Chancery Chamber is the 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*, Thestral 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 or on behalf of 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 9700; email: financeandtaxappeals@hmcts.gsi.gov.uk).
- 6.7 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/frms/hmcts/tax-and-chancery-upper-tribunal>
- 6.8 Thestral 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 (david.watkins@fca.org.uk) and the SPC Decision Making Secretariat (SPCDecisionMakingSecretariat@fca.org.uk).

Confidentiality and publicity

- 6.9 Thestral 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 Thestral should note that section 391(5) of the Act, as applied by paragraph 10 of Schedule 6 of the PSR, 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 David Watkins (david.watkins@fca.org.uk).
- 6.12 Any questions regarding the executive procedures decision-making process should be directed to the SPC Decision Making Secretariat (SPCDecisionMakingSecretariat@fca.org.uk).

Annex

RELEVANT STATUTORY PROVISIONS

The PSR

1. Regulation 8(b) of the PSR provides that the Authority may, on the application of an authorised payment institution, vary that person's authorisation by, among other things, removing a payment service from those which it has granted authorisation provided that the Authority is satisfied that the conditions set out in regulations 6(4) to (9) (conditions for authorisation) are being or likely to be met.
2. Regulation 12(1) of the PSR provides that the Authority may vary the authorisation of an authorised payment institution in any of the ways mentioned in regulation 8 if it appears to the Authority that, but not limited to the following:
"[...]"
 - (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).*
 - (d) *The variation is desirable in order to protect the interests of consumers."*
3. Regulation 12(2) of the PSR provides that a variation takes effect immediately if the notice given under paragraph (6) states that this is the case, or on such date as may be specified in the notice. Regulation 12(3) of the PSR 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.
4. Regulation 12(6) of the PSR provides that, where the Authority proposes to vary a person's authorisation, it must give the person notice.
5. Section 391 of the Act, as applied in modified form by paragraph 10 of Schedule 6 to the PSR, 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: a) unfair to the person with respect to whom the action was taken (or was proposed to be taken), b) prejudicial to the interests of consumers, or c) 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."*
6. Regulation 15 of the PSR provides that regulations 7 to 12 apply to registration as a small payment institution as they apply to authorisation as a payment institution as if:
"[...]"

- (a) *references to authorisation were references to registration.*
- (e) *in regulation 12(1) (variation of authorisation on Authority's own initiative) for sub-paragraph (a) there were substituted the person does not meet, or is unlikely to meet, any of the conditions set out in regulation 14(4) to (11)."*

RELEVANT REGULATORY PROVISIONS

The Principles for Businesses

- 7. The Principles for Business ("PRIN") are a general statement of the fundamental obligations of firms and the other persons to whom they apply 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, including as applied by the PSR, and reflect the statutory objectives.
- 8. The Principles are set out at PRIN 2.1.1. Of relevance to this matter is:

Principle 11 (Relations with regulators). This 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.
- 9. PRIN 3.1.1AR provides that the Principles also apply to a small payment institution.

The Enforcement Guide

- 10. The Authority's approach in relation to its own-initiative powers is set out in the Enforcement Guide ("EG"), certain provisions of which are summarised below.
- 11. EG 19.20 outlines the Authority's policy in respect of the use of its powers under the PSR. EG 19.20.5 provides that the PSR, 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.
- 12. The Authority considers that the powers under regulation 12(1) of the PSR 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 Authority's own-initiative and intervention against incoming firms" are applicable.
- 13. EG 8.2.1 states 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: 1) 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 2) the principle that a restriction imposed on a firm should be proportionate to the objectives the Authority is seeking to achieve.
- 14. 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 55J or 55L of the Act where the Authority considers it appropriate 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 or is concerned that the consequences of a firm not taking the desired steps may be serious.

15. 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.
16. 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.
17. 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 some of the following characteristics: 1) information indicating significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests; and 2) circumstances suggesting a serious problem within a firm or with a firm's controllers.
18. 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 consumer loss or risk of consumer loss or other adverse effect on consumers; and 2) 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.
19. 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.