

12 April 2024

Dear CEO**Action Needed: maintaining adequate financial resources**

On 11 January 2024, [we announced a review](#) of historical motor finance commission arrangements and sales across several firms. We are grateful to the firms involved in our review for their constructive engagement. As we have said before, our ability to clarify matters in a condensed timeframe depends on firms providing data comprehensively and promptly. We recognise this work has generated some uncertainty. We are working hard to get to the bottom of the facts and aim to set out next steps by 24 September. As we do so, we are mindful not just of ensuring that consumers are treated fairly but also our objective to ensure markets function well. If we find there has been widespread misconduct and consumers have lost out, then our objective is to identify how best to make sure people receive an appropriate level of compensation in an orderly, consistent and efficient way.

While our diagnostic work continues, we have observed firms taking different approaches to account for the potential impact on their financial resources of historic use of DCA arrangements that may have breached laws and regulations in force at the time. We are therefore writing to remind firms that they must maintain adequate financial resources at all times. While each firm will need to examine its own specific circumstances and these issues do not impact all firms in the same way, we would expect all firms to plan for any additional operational costs from increased complaints and, where applicable, to meet the costs of resolving those complaints.

The purpose of adequate financial resources

Every firm authorised under the Financial Services and Markets Act 2000 must meet the FCA's Threshold Conditions and Principles for Businesses, which require firms to have appropriate resources (see [COND 2.4 Appropriate resources](#) and [PRIN](#) in the FCA handbook). We set out more detail in our framework for assessing adequate financial resources ([FG 20/1](#)), including the need to cover potential redress liabilities.

WHAT WE EXPECT FIRMS TO DO, WITH IMMEDIATE EFFECT:**Firms must assess the adequacy of their financial resources**

We expect you to undertake an assessment of whether your firm's financial resources are adequate. This assessment should be proportionate to the scale and complexity of your regulated activities. The assessment is expected to be forward looking and must consider

the risks, and potential liabilities, your firm is exposed to, including any potential redress liabilities.

We expect you to analyse the impact of making any capital reduction, such as dividend payments, on your firm's ability to meet potential future liabilities that may arise from historic use of DCA arrangements.

Firms must ensure accuracy of financial statements and regulatory reporting

Accounting standards generally require firms to make provision or recognise contingent liability in their financial statements for liabilities of uncertain timing and/or amount. You should ensure that your financial statements are accurate and up to date. This includes considering issues relevant to your firm. For example, relevant Financial Ombudsman Service decisions that may impact your firm, pertinent court judgments and any other issues identified from your internal review of historical motor finance commission arrangements. You should engage external auditors where required.

Firms must make adequate disclosures to the FCA

Under [Principle for Businesses 11](#), we expect regulated firms to deal with us in an open and cooperative way. That includes disclosing anything we would reasonably expect to know. More detailed rules and guidance are set out in [SUP 15](#). Firms must immediately notify us if they are unlikely to have adequate financial resources in the foreseeable future, and before they take action that could materially impact capital positions or any other decisions which could result in serious detriment to a consumer.

We also expect you to notify us if you are involved in litigation relating to motor finance commissions that are subject to or likely to be subject to appeal to the High Court or Court of Appeal.

Firms must make adequate disclosures to group stakeholders, if applicable

If your firm is part of a wider group, we expect you to engage with appropriate group stakeholders to ensure that they fully understand the nature of our intervention and the possible impact on your firm.

Firms must deal with DCA complaints and subject access requests appropriately

Firms should continue to investigate the complaints they receive involving a DCA. This will help ensure firms are able to act promptly to resolve complaints if we decide the pause should be lifted and complaint handling should resume. Even if we decide that DCA complaints should be resolved through an alternative approach, it is highly likely that firms will need to take similar steps.

Firms should also consider the [Information Commissioner's Office](#) guidance on responding appropriately to data subject access requests. Firms should confirm, if a consumer asks, whether their agreement involved a DCA, even if they haven't submitted a data subject access request.

WHAT WE WILL DO:

Ongoing supervision

We will monitor financial resources held by your firm through existing regulatory reporting and ongoing supervisory engagement supplemented by additional data requests, where

necessary. We may use our regulatory tools to intervene if we find your firm has not undertaken any assessment of adequacy of financial resources or may be at risk of not having adequate financial resources. Additionally, we will intervene if we identify actions that appear to be an attempt to avoid potential future liabilities.

In addition to monitoring financial resources, we will also monitor the volume of DCA-related complaints firms are receiving. While the 37-week pause is in effect, firms do not need to provide a final response within 8 weeks, but must ensure they comply with the relevant rules in [Appendix 5 of the Dispute Resolution: Complaints Sourcebook \(DISP App 5\)](#).

Additional data collection

We will let you know if your firm has been selected to submit additional data.

If you have further questions, please contact:
motorfinancecommissionproject@fca.org.uk

Yours faithfully

Roma Pearson
Director of Consumer Finance