

Chapter 10

Prudential rules for debt management firms



10.1 Application and purpose

Application

10.1.1

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This chapter applies to:

- (1) a *debt management firm*; and
- (2) a *not-for-profit debt advice body* that, at any point in the last 12 *months*, has held £1 million or more in *client money* or as the case may be, projects that it will hold £1 million or more in *client money* at any point in the next 12 *months*.

Application: professional firms

10.1.2

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- (1) This chapter does not apply to an *authorised professional firm*:
 - (a) whose main business is the practice of its profession; and
 - (b) whose *regulated activities* covered by this chapter are incidental to its main business.
- (2) A *firm's* main business is the practice of its profession if the proportion of income it derives from professional fees is, during its annual accounting period, at least 50% of the *firm's* total income (a temporary variation of not more than 5% may be disregarded for this purpose).
- (3) Professional fees are fees, commissions and other receipts receivable in respect of legal, accountancy, conveyancing and surveying services provided to clients but excluding any items receivable in respect of *regulated activities*.

Purpose

10.1.3

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This chapter builds on the *threshold condition* referred to at **COND 2.4** (Appropriate resources) by providing that a *firm* must meet, on a continuing basis, a basic solvency requirement. This chapter also builds on *Principle 4* which requires a *firm* to maintain adequate financial resources by setting out prudential requirements for a *firm* according to what type of *firm* it is.

10.1.4

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Prudential standards have an important role in minimising the risk of harm to *customers* by ensuring that a *firm* behaves prudently in monitoring and managing business and financial risks.

10.1.5 **G** More generally, having adequate prudential resources gives the *firm* a degree of resilience and some indication to *customers* of creditworthiness, substance and the commitment of its owners. Prudential standards aim to ensure that a *firm* has prudential resources which can provide cover for operational and compliance failures and pay redress, as well as reducing the possibility of a shortfall in funds and providing a cushion against disruption if the *firm* ceases to trade.

10.1.6 **R** A contravention of the *rules* in this chapter does not give rise to a right of action by a *private person* under section 138D of the *Act* (and each of those *rules* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action).