



Q: What should we do if we breach the capital requirement?

An inability to meet capital requirements must be notified to the FCA by writing to their Customer Contact Centre and providing reasonable advance notice of the potential breach and a description of the matters relating to the potential breach.

Where there may be a breach due to a proposed change or action the FCA would expect advance notice at least 28 days before the change takes place.

If the firm has unknowingly breached the capital requirement, a notification should be made without delay and provide a full explanation of how and why the breach occurred. It would be advisable to explain what actions the firm has taken to address the issue, including remedying weaknesses in governance and control arrangements that failed to highlight the breach.

It would also be sensible to check the last capital return submitted to the FCA when preparing the notification in order to provide context. Both EMI and PI firms must report details of their capital requirement calculations and details of their capital resources in annual returns:

- FIN060a (EMI Annual Return) for an EMI; and
- FSA056 (Capital Adequacy Return) for a PI.

If you are making a notification that you have breached your capital requirements you should explain how this happened in the context in your last report.

The email for the FCA Customer Contact Centre is: **firm.queries@fca.org.uk** or a contact form can be used via **www.fca.org.uk/contact**

These would be the best routes to contact the FCA, given the seriousness of the matter, i.e. rather than sending a letter.

However, a letter sent to the FCA to follow up on the emailed notification may be prudent. The FCA main address is: Financial Conduct Authority, 12 Endeavour Square, London E20 1JN