

Chapter 11

Restitution and redress



11.1 **Restitution orders under sections 382, 383 and 384 of the Act: the FCA's general approach**

- 11.1.1
- Decisions about whether to apply to the civil courts for restitution orders under the *Act* will be made by the executive director of Enforcement or, in his or her absence, the acting executive director of Enforcement.
- 11.1.2
- [deleted]
- 11.1.3
- The *FCA* has power to apply to the court for a restitution order under section 382 of the *Act* and (in the case of *market abuse*) under section 383 of the *Act*. It also has an administrative power to require restitution under section 384 of the *Act*. When deciding whether to exercise these powers, the *FCA* will consider whether this would be the best use of the *FCA*'s limited resources taking into account, for example, the likely amount of any recovery and the costs of achieving and distributing any sums. It will also consider, before exercising its powers: other ways that *persons* might obtain redress, and whether it would be more efficient or cost-effective for them to use these means instead; and any proposals by the *person* concerned to offer redress to any *consumers* or other *persons* who have suffered loss, and the adequacy of those proposals. The *FCA* expects, therefore, to exercise its formal restitution powers on rare occasions only.
- 11.1.4
- Instances in which the *FCA* might consider using its powers to obtain restitution for *eligible counterparties* are likely to be very limited.