

Chapter 14

Collective Investment Schemes

14.2 Choice of powers

- 14.2.1** The *FCA* may use its powers under sections 254, 257 and 258 (in the case of *AUTs*) and sections 261U, 261X and 261Y (in the case of *ACSs*) individually, together, and as well as direct enforcement action against a *depository* or *authorised fund manager* in their capacity as *firms*.
- 14.2.2** Where the *FCA* has a concern about an *AUT* or *ACS* that must be dealt with urgently, it will generally use its power to give directions under section 257 (in the case of an *AUT*) or section 261X (in the case of an *ACS*) in the first instance.
- 14.2.3** The following are examples of situations where the *FCA* may consider it appropriate to seek a court order under section 258 (in the case of an *AUT*) or section 261Y (in the case of an *ACS*) to remove the *authorised fund manager* or *depository*:

 - (1) Where there are grounds for concern over the behaviour of the *authorised fund manager* or *depository* in respect of the management of the *scheme* or of its assets.
 - (2) Where an *authorised fund manager* or *depository* has breached a requirement imposed on him under the *Act* or has knowingly or recklessly given the *FCA* false information.
- 14.2.4** The *FCA* recognises that participants in an *AUT* or *ACS* have a direct financial interest in the *scheme property*. It follows that in cases where it considers it appropriate to use its section 254 power (in the case of an *AUT*) or its section 261U power (in the case of an *ACS*) to revoke an authorisation order, the *FCA* will generally first require the *authorised fund manager* or *depository* to wind up the *AUT* or *ACS* (or seek a court order for the appointment of a firm to wind up the *AUT* or *ACS*).
- 14.2.5** [deleted]