

## Chapter 15

# Disqualification of auditors and actuaries

## 15.4 Disqualification under section 249 or section 261K

### 15.4.1

When deciding whether or not to disqualify an auditor under section 249(1) or section 261K(1) of the *Act* (concerning the power to disqualify an auditor for breach of *trust scheme rules* or *contractual scheme rules*), and in setting the disqualification, the *FCA* will take into account all the circumstances of the case. These may include, but are not limited to, the following circumstances:

- (1) the effect of the auditor's breach of a duty imposed by *trust scheme rules* or *contractual scheme rules*: the *FCA* will regard as particularly serious a breach of a duty imposed by *trust scheme rules* or *contractual scheme rules* (set out in ■ COLL 4 (Investor relations) and ■ COLL 7 (Suspension of dealings and termination of authorised funds)) which has resulted in, or is likely to result in, loss to *consumers* or damage to confidence in the *financial system* or an increased risk that a *firm* may be used for the purposes of *financial crime*;
- (2) action taken by the auditor to remedy its breach of a duty imposed by *trust scheme rules* or *contractual scheme rules*: this may include any steps taken by the auditor to bring the breach to the attention of the *FCA* promptly, the degree of co-operation with the *FCA* in relation to any subsequent investigation, and whether any steps have been taken to rectify the breach or prevent a similar breach;
- (3) action taken by a relevant professional body: The *FCA* will consider whether any disciplinary action has or will be taken against the auditor by a relevant professional body and whether such action adequately addresses the particular breach of a duty imposed by *trust scheme rules* or *contractual scheme rules*;
- (4) the previous compliance record of the auditor concerned: whether the *FCA* (or a *previous regulator*) or professional body has imposed any previous disciplinary sanctions on the *firm* or individual concerned.