## Chapter 16

## Disapplication orders against members of the professions



## 16.1 The FCA's general approach to making disapplication orders

- 16.1.1 The FCA's power under section 329 of the Act to make an order disapplying an exemption from the general prohibition in relation to a person who is a member of the professions on the grounds that the member is not a fit and proper person to conduct exempt regulated activities, and to maintain a public record of disapplication orders, will assist the FCA in pursuing its statutory objectives.
- 16.1.2 The FCA may make a range of disapplication orders depending on the particular circumstances of each case, including the range of exempt regulated activities undertaken and the particular exempt regulated activities to which the person's lack of fitness and propriety in that context is relevant.
- 16.1.3 The FCA recognises that a decision to make a disapplication order may have serious consequences for a *member* in relation not only to the conduct by the member of exempt regulated activities, but also in relation to the other business carried on by the member. When it decides whether to exercise its power to make a disapplication order, the FCA will consider all relevant circumstances including whether other action, in particular the making of a prohibition order (see chapter 9 of this guide), would be more appropriate. In general, the FCA is likely to exercise its powers to make an order disapplying an exemption where it considers that a *member* of a profession presents such a risk to the FCA's statutory objectives that it is appropriate to prevent the *member* from carrying out the *exempt regulated activities*. The FCA will also have regard to any disciplinary action taken, or to be taken, against the person by the relevant designated professional body.