Enforcement Guide

Chapter 2

The FCA's approach to enforcement



2.15 **Decision making in the context of** regulatory enforcement action

- 2.15.1 When the FCA is proposing to exercise its regulatory enforcement powers, the Act generally requires the FCA to give statutory notices (depending on the nature of the action, a warning notice and decision notice or supervisory notice) to the subject of the action. The person to whom a warning notice or supervisory notice is given has a right to make representations on the FCA's proposed decision.
- 2.15.2 The procedures the FCA will follow when giving supervisory notices, warning notices and decision notices are set out in ■ DEPP 1 to ■ 5. Under these procedures, the decisions to issue such notices in contested enforcement cases are generally taken by the RDC, an FCA Board committee that is appointed by, and accountable to, the FCA Board for its decisions generally. Further details about the RDC can be found in ■ DEPP 3 and on the pages of the FCA web site relating to the RDC. However, decisions on settlements and statutory notices arising from them are taken by two members of the FCA's senior management, under a special settlement decision procedure (see chapter 5).
- 2.15.3 A person who receives a decision notice or supervisory notice has a right to refer the matter to the *Tribunal* within prescribed time limits. The *Tribunal* is independent of the FCA and members of the Tribunal are appointed by the Lord Chancellors Department. Where a matter has been referred to it, the Tribunal will determine what action, if any, it is appropriate for the FCA to take in relation to that matter. Further details about the Tribunal can be found in an item on the *Tribunal* on the Enforcement pages of the FCA web site and on the Tribunal's own web site.

EG 2/2