

Enforcement Guide

Chapter 5

Settlement

5.3 The basis of settlement discussions

5.3.1

As set out in ■ DEPP 5, special decision-making arrangements apply in relation to settlement. The *person* concerned may agree all relevant issues with the *FCA* (in which case the *settlement decision makers* will give all relevant *statutory notices*). Alternatively, a *focused resolution agreement* may be agreed (in which case the *settlement decision makers* are responsible for giving the *warning notice* and the *RDC* for giving any *decision notice*). The *FCA* would expect to hold any settlement discussions on the basis that neither *FCA* staff nor the *person* concerned would seek to rely against the other on any admissions or statements made if the matter is considered subsequently by the *RDC* or the *Tribunal* unless those admissions or statements are recorded in a *focused resolution agreement*. This will not, however, prevent the *FCA* from following up, through other means, on any new issues of regulatory concern which come to light during settlement discussions. The *RDC* may be made aware of the fact negotiations are taking place if this is relevant, for example, to an application for an extension of the period for making representations.

5.3.2

If the settlement negotiations result in a proposed settlement of the dispute, *FCA* staff will put the terms of the proposed settlement in writing and agree them with the *person* concerned. The *settlement decision makers* (and, as the case may be, the *RDC*) will then consider the matter under the procedures set out in ■ DEPP 5. A settlement is likely to result in the giving of *statutory notices* (see ■ EG 2.15.1 to ■ EG 2.15.3).