

## Chapter 9

# Prohibition Orders and withdrawal of approval

## 9.2 The FCA's general policy in this area

- 9.2.1** In deciding whether to make a *prohibition order* and/or, in the case of an *approved person*, to withdraw its approval, the *FCA* will consider all the relevant circumstances including whether other enforcement action should be taken or has been taken already against that individual by the *FCA*. As is noted below, in some cases the *FCA* may take other enforcement action against the individual in addition to seeking a *prohibition order* and/or withdrawing its approval. The *FCA* will also consider whether enforcement action has been taken against the individual by other enforcement agencies or *designated professional bodies*.
- 9.2.2** The *FCA* has the power to make a range of *prohibition orders* depending on the circumstances of each case and the range of *regulated activities* to which the individual's lack of fitness and propriety is relevant. Depending on the circumstances of each case, the *FCA* may seek to prohibit individuals from performing any class of function in relation to any class of *regulated activity*, or it may limit the *prohibition order* to specific functions in relation to specific *regulated activities*. The *FCA* may also make an order prohibiting an individual from being employed by a particular *firm*, type of *firm* or any *firm*.
- 9.2.3** The scope of a *prohibition order* will depend on the range of functions which the individual concerned performs in relation to *regulated activities*, the reasons why he is not fit and proper and the severity of risk which he poses to *consumers* or the market generally.
- 9.2.4** Where the *FCA* issues a *prohibition order*, it may indicate in the *decision notice* or *final notice* that it would be minded to revoke the order on the application of the individual in the future, in the absence of new evidence that the individual is not fit and proper. If the *FCA* gives such an indication, it will specify the number of years after which it would be minded to revoke or vary the prohibition on an application. However, the *FCA* will only adopt this approach in cases where it considers it appropriate in all the circumstances. In deciding whether to adopt this approach, the factors the *FCA* may take into account include, but are not limited to, where appropriate, the factors at paragraphs ■ 9.3.2 and at ■ 9.5.1.
- The *FCA* would not be obliged to revoke an order after the specified period even where it gave such an indication. Further, if an individual's *prohibition order* is revoked, he would still have to satisfy the *FCA* as to his fitness for a particular role in relation to any future application for approval to perform a *controlled function*.

### 9.2.5

Paragraphs ■ 9.3.1 to ■ 9.3.7 set out additional guidance on the FCA's approach to making *prohibition orders* against *approved persons* and/or withdrawing such persons' approvals. Paragraphs ■ 9.5.1 to ■ 9.5.2 set out additional guidance on the FCA's approach to making *prohibition orders* against other individuals.