

Chapter 9

Prohibition Orders and withdrawal of approval

9.6 Applications for variation or revocation of prohibition orders

9.6.1

When considering whether to grant or refuse an application to revoke or vary a *prohibition order*, the *FCA* will consider all the relevant circumstances of a case. These may include, but are not limited to:

- (1) the seriousness of the misconduct or other unfitness that resulted in the order;
- (2) the amount of time since the original order was made;
- (3) any steps taken subsequently by the individual to remedy the misconduct or other unfitness;
- (4) any evidence which, had it been known to the *FCA* at the time, would have been relevant to the *FCA*'s decision to make the *prohibition order*;
- (5) all available information relating to the individual's honesty, integrity or competence since the order was made, including any repetition of the misconduct which resulted in the prohibition order being made;
- (6) where the *FCA*'s finding of unfitness arose from incompetence rather than from dishonesty or lack of integrity, evidence that this unfitness has been or will be remedied; for example, this may be achieved by the satisfactory completion of relevant training and obtaining relevant qualifications, or by supervision of the individual by his employer;
- (7) the financial soundness of the individual concerned; and
- (8) whether the individual will continue to pose the level of risk to *consumers* or confidence in the *financial system* which resulted in the original prohibition if it is lifted.

9.6.2

When considering whether to grant or refuse an application to revoke or vary a *prohibition order*, the *FCA* will take into account any indication given by the *FCA* in the *final notice* that it is minded to revoke or vary the *prohibition order* on application after a certain number of years (see paragraph ■ 9.2.4).

9.6.3

If the individual applying for a revocation or variation of a prohibition order proposes to take up an offer of employment to perform a *controlled*

function, the *FCA* will take this into account when considering whether to grant or refuse the application.

9.6.4

The *FCA* will not generally grant an application to vary or revoke a *prohibition order* unless it is satisfied that: the proposed variation will not result in a reoccurrence of the risk to *consumers* or confidence in the *financial system* that resulted in the order being made; and the individual is fit to perform functions in relation to *regulated activities* generally, or to those specific *regulated activities* in relation to which the individual has been prohibited. The *FCA* will assess the individual's fitness and propriety to perform these functions on the basis of the criteria in ■ FIT 2.1 (Honesty, integrity and reputation), ■ FIT 2.2 (Competence and capability) and ■ FIT 2.3 (Financial soundness).

9.6.5

The *FCA* will consult the *PRA* before varying or revoking a prohibition order if, as a result of the variation or revocation, an individual will either be prohibited from, or no longer be prohibited from, a function of interest to the *PRA* as defined at section 56(7B) of the *Act*.