

Statement of policy with respect to the making of temporary product
intervention rules

Chapter 2

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2.2 General rule making and product intervention rules

- 2.2.1 **G** The *Act* empowers the *FCA* to make general *rules* as appear necessary or expedient for the purpose of advancing one or more of its *operational objectives*.
[Note: see section 137A of the *Act*]
- 2.2.2 **G** The *Act* also provides that the *FCA* may use its general rule-making power to make product intervention rules prohibiting *authorised persons* from, among other things, entering into specified agreements (section 137D of the *Act*). These *rules* may be made to advance:
- (1) the consumer protection objective; or
 - (2) the competition objective; or
 - (3) the market integrity objective.
- 2.2.3 **G** Section 137D(2) of the *Act* sets out that the *FCA* may prohibit *authorised persons* from:
- (1) entering into specified agreements with any *person* or specified person (specified person means a person who meets the description specified by *FCA rules*);
 - (2) entering into specified agreements with any *person* or specified person unless requirements specified in the *rules* have been satisfied;
 - (3) doing anything that would or might result in the entering into of specified agreements by *persons* or specified persons, or the holding by them of a beneficial or other kind of economic interest in specified agreements; and
 - (4) doing anything within paragraph (3) unless requirements specified in the *rules* have been satisfied.
- 2.2.4 **G** Section 137D of the *Act* makes it clear that a range of options would be available to us in making *rules* prohibiting *authorised persons* from entering into specified agreements.

2.2.5 **G** The extent of the *rules* which are made will generally depend on the type of intervention deemed necessary to address the issues identified, having regard to whether the intervention would be a proportionate response to the perceived risk to *consumers*, competition issues or market integrity issues.

2.2.6 **G** *Rules* may include:

- (1) requiring certain product features to be included, excluded or changed; or
- (2) requiring amendments to promotional materials; or
- (3) the imposition of restrictions on sales or marketing of the product; or
- (4) in more serious cases, a ban on sales or marketing of a product in relation to all or some types of *client*.

2.2.7 **G** Where the product is provided by a business outside of the *UK*, *rules* may be made targeting *regulated activities* by *authorised persons* in the *UK* that would lead to a specified agreement being formed.

[**Note:** see sections 137D(2)(c) and (d) of the *Act*]