

Chapter 7

Individual requirements

7.3 Criteria for varying a firm's permission or imposing, varying or cancelling requirements on the FCA's own initiative

- 7.3.1** **G** The FCA expects to maintain a close working relationship with certain types of *firm* and expects that routine supervisory matters arising can be resolved during the normal course of this relationship by, for example, issuing individual *guidance* where appropriate (see ■ SUP 9.3). However, where the FCA deems it appropriate, it will exercise its *own-initiative powers*:
- (1) in circumstances where it considers it appropriate for the *firm* to be subject to a formal *requirement*, breach of which could attract enforcement action; or
 - (2) if a variation is needed to enable the *firm* to comply with the *requirement*, due to agreements the *firm* may have with third parties. (For example a *firm* may be under a contractual obligation to do something, but only if it can do so lawfully. In this case, if the FCA considers the *firm* must not do it, then the FCA would need to prevent it doing so through a variation in its *Part 4A permission* to enable the *firm* to avoid breaching the contractual obligation.)
- 7.3.2** **G** The FCA may also seek to exercise its *own-initiative powers* in certain situations, including the following:
- (1) If the FCA determines that a *firm's* management, business or *internal controls* give rise to material risks that are not fully addressed by existing requirements, the FCA may seek to use its *own-initiative powers*.
 - (2) If a *firm* becomes or is to become involved with new products or selling practices which present risks not adequately addressed by existing requirements, the FCA may seek to vary the *firm's Part 4A permission* in respect of those risks.
 - (3) If there has been a change in a *firm's* structure, *controllers*, activities or strategy which generate material uncertainty or create unusual or exceptional risks, then the FCA may seek to use its *own-initiative powers*. (See also ■ SUP 11.7 for a description of the FCA's ability to impose a requirement on the acquisition of *control* of a *firm* under section 55O of the Act.)
 - (4) At the request of, or to assist an overseas regulator as set out in section 55Q of the Act.

(5) The FCA may separately exercise its *additional own-initiative variation power*, as described in ■ SUP 7.2.2AG to ■ SUP 7.2.2DG and ■ SUP 7.2.3AG.

7.3.3

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Pursuant to sections 55L, 55N, 55O, 55P and 55Q of the Act, within the scope of its functions and powers, the FCA may seek to impose *requirements* which include but are not restricted to:

- (1) requiring a *firm* to submit regular reports covering, for example, trading results, management accounts, *customer* complaints, connected party transactions;
- (2) where appropriate, requiring a *firm* to maintain prudential limits, for example on large *exposures*, foreign currency *exposures* or liquidity gaps;
- (3) requiring a *firm* to submit a business plan;
- (4) limiting the *firm's* activities;
- (5) requiring an *FCA-authorised person* to maintain a particular amount or type of financial resources.

7.3.4

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The FCA will seek to give a *firm* reasonable notice of an intent to vary its *permission* or impose a *requirement* and, except when exercising its *additional own-initiative variation power*, to agree with the *firm* an appropriate timescale. However, if the FCA considers that a delay may create a risk to any of the FCA's *statutory objectives*, the FCA may need to act immediately using its powers under section 55J and/or 55L of the Act with immediate effect.