

Chapter 2

Statutory notices and the allocation of decision making

2.2 Warning notices and first supervisory notices

- 2.2.1** **G** If *FCA* staff consider that action requiring a *warning notice* or first *supervisory notice* is appropriate, they will recommend to the relevant decision maker that the notice be given.
- 2.2.2** **G** For first *supervisory notices*, the *FCA* staff will recommend whether the action should take effect immediately, on a specified date, or when the matter is no longer open to review (see ■ DEPP 2.2.5 G).
- 2.2.3** **G** The decision maker will:
- (1) consider whether the material on which the recommendation is based is adequate to support it; the decision maker may seek additional information about or clarification of the recommendation, which may necessitate additional work by the relevant *FCA* staff;
 - (2) satisfy itself that the action recommended is appropriate in all the circumstances;
 - (3) decide whether to give the notice and the terms of any notice given.
- 2.2.4** **G** If the *FCA* decides to take no further action and the *FCA* had previously informed the *person* concerned that it intended to recommend action, the *FCA* will communicate this decision promptly to the *person* concerned.
- 2.2.5** **G** A matter is open to review (as defined in section 391(8) (Publication) of the *Act*) (in relation to a *supervisory notice* which does not take effect immediately or on a specified date) when:
- (1) the period during which any *person* may refer a matter to the *Tribunal* is still running; or
 - (2) the matter has been referred to the *Tribunal* but has not been dealt with; or
 - (3) the matter has been referred to the *Tribunal* and dealt with but the period during which an appeal may be brought against the *Tribunal's* decision is still running; or
 - (4) such an appeal has been brought but has not been determined.