

Enforcement Guide

Chapter 13

Insolvency

13.11 Applications for orders against debt avoidance: the FCA's policy

13.11.1 When it decides whether to make an application for an order against debt avoidance pursuant to section 375 of the *Act*, the *FCA* will consider all relevant factors, including the following:

- (1) the extent to which the relevant transactions involved dealings in *consumers'* funds;
- (2) whether it would be appropriate to petition for a winding up order, bankruptcy order, or sequestration award, in relation to the debtor and the extent to which the transaction could properly be dealt with in that winding up, bankruptcy or sequestration;
- (3) the number of *consumers* or other creditors likely to be affected and their ability to make an application of this nature; and
- (4) the size of the transaction.

The FCA's arrangements for notification of petitions and other documents

13.11.2 ■ Paragraphs 13.12.2 to ■ 13.13.1 contain information for insolvency practitioners and others about sending copies of petitions, notices and other documents to the *FCA*, and about making reports to the *FCA*. Insolvency practitioners and others have duties to give that information and those documents to the *FCA* under various sections in Part XXIV of the *Act* (Insolvency). ■ Paragraphs 13.12.2 identifies the relevant sections of the *Act* that explain some of the duties.