

Chapter 14

Collective Investment Schemes



14.2 Choice of powers

- 14.2.1
- The FCA may use its powers under sections 254, 257 and 258 (in the case of AUTs) and sections 261U, 261X and 261Y (in the case of ACSs) individually, together, and as well as direct enforcement action against a *depository* or *authorised fund manager* in their capacity as *firms*.
- 14.2.2
- Where the FCA has a concern about an AUT or ACS that must be dealt with urgently, it will generally use its power to give directions under section 257 (in the case of an AUT) or section 261X (in the case of an ACS) in the first instance.
- 14.2.3
- The following are examples of situations where the FCA may consider it appropriate to seek a court order under section 258 (in the case of an AUT) or section 261Y (in the case of an ACS) to remove the *authorised fund manager* or *depository*:
- (1)

Where there are grounds for concern over the behaviour of the *authorised fund manager* or *depository* in respect of the management of the *scheme* or of its assets.
- (2)

Where an *authorised fund manager* or *depository* has breached a requirement imposed on him under the *Act* or has knowingly or recklessly given the FCA false information.
- 14.2.4
- The FCA recognises that participants in an AUT or ACS have a direct financial interest in the *scheme property*. It follows that in cases where it considers it appropriate to use its section 254 power (in the case of an AUT) or its section 261U power (in the case of an ACS) to revoke an authorisation order, the FCA will generally first require the *authorised fund manager* or *depository* to wind up the AUT or ACS (or seek a court order for the appointment of a firm to wind up the AUT or ACS).
- 14.2.5
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