

Chapter 14

Collective Investment Schemes

14.4 Exercise of the powers in respect of recognised schemes: sections 279 and 281 of the Act – powers to revoke recognition of schemes recognised under section 272: the FCA's policy

14.4.1 The *FCA* will consider all the relevant circumstances of each case. The general factors which the *FCA* may consider include, but are not limited to, those set out in ■ paragraph 14.1.1 (1) to (9) (the conduct of the *operator* of the *scheme* and of the *trustee* or *depository* will also, of course, be taken into account in relation to each of these factors).

14.4.2 As well as or instead of using these powers, the *FCA* may ask the relevant *regulatory body* of the country or territory in which the *scheme* is authorised to take such action in respect of the *scheme* and/or its *operator*, *trustee* or *depository* as will resolve the *FCA*'s concerns.

14.4.3 Decisions about whether to apply to the civil courts for *collective investment scheme* related orders under the *Act* will be made by the *RDC* Chairman or, in an urgent case and if the Chairman is not available, by an *RDC* Deputy Chairman. In an exceptionally urgent case the matter will be decided by the director of Enforcement or, in his or her absence, another member of the *FCA*'s executive of at least director of division level.

14.4.4 An exceptionally urgent case in these circumstances is one where the *FCA* staff believe that a decision to begin proceedings

- (1) should be taken before it is possible to follow the procedure described in ■ paragraph 14.4.3; and
- (2) it is necessary to protect the interests of consumers or potential consumers.