

Chapter 15

Disqualification of auditors and actuaries

15.4 Disqualification under section 249 or section 261K

15.4.1

When deciding whether or not to disqualify an auditor under section 249(1) or section 261K(1) of the *Act* (concerning the power to disqualify an auditor for breach of *trust scheme rules* or *contractual scheme rules*), and in setting the disqualification, the *FCA* will take into account all the circumstances of the case. These may include, but are not limited to, the following circumstances:

- (1) the effect of the auditor's breach of a duty imposed by *trust scheme rules* or *contractual scheme rules*: the *FCA* will regard as particularly serious a breach of a duty imposed by *trust scheme rules* or *contractual scheme rules* (set out in ■ [COLL 4](#) (Investor relations) and ■ [COLL 7](#) (Suspension of dealings and termination of authorised funds)) which has resulted in, or is likely to result in, loss to *consumers* or damage to confidence in the *financial system* or an increased risk that a *firm* may be used for the purposes of *financial crime*;
- (2) action taken by the auditor to remedy its breach of a duty imposed by *trust scheme rules* or *contractual scheme rules*: this may include any steps taken by the auditor to bring the breach to the attention of the *FCA* promptly, the degree of co-operation with the *FCA* in relation to any subsequent investigation, and whether any steps have been taken to rectify the breach or prevent a similar breach;
- (3) action taken by a relevant professional body: The *FCA* will consider whether any disciplinary action has or will be taken against the auditor by a relevant professional body and whether such action adequately addresses the particular breach of a duty imposed by *trust scheme rules* or *contractual scheme rules*;
- (4) the previous compliance record of the auditor concerned: whether the *FCA* (or a *previous regulator*) or professional body has imposed any previous disciplinary sanctions on the *firm* or individual concerned.