

Chapter 16

Disapplication orders against members of the professions

16.1 The FCA's general approach to making disapplication orders

- 16.1.1** The *FCA's* power under section 329 of the *Act* to make an order disapplying an exemption from the *general prohibition* in relation to a *person* who is a *member* of the professions on the grounds that the *member* is not a fit and proper person to conduct *exempt regulated activities*, and to maintain a public record of disapplication orders, will assist the *FCA* in pursuing its *statutory objectives*.
- 16.1.2** The *FCA* may make a range of disapplication orders depending on the particular circumstances of each case, including the range of *exempt regulated activities* undertaken and the particular *exempt regulated activities* to which the *person's* lack of fitness and propriety in that context is relevant.
- 16.1.3** The *FCA* recognises that a decision to make a disapplication order may have serious consequences for a *member* in relation not only to the conduct by the member of *exempt regulated activities*, but also in relation to the other business carried on by the *member*. When it decides whether to exercise its power to make a disapplication order, the *FCA* will consider all relevant circumstances including whether other action, in particular the making of a *prohibition order* (see chapter 9 of this guide), would be more appropriate. In general, the *FCA* is likely to exercise its powers to make an order disapplying an exemption where it considers that a *member* of a profession presents such a risk to the *FCA's statutory objectives* that it is appropriate to prevent the *member* from carrying out the *exempt regulated activities*. The *FCA* will also have regard to any disciplinary action taken, or to be taken, against the *person* by the relevant *designated professional body*.