

Chapter 16

Disapplication orders against members of the professions



16.3 Applications under section 329(3) for variation or revocation of disapplication orders

16.3.1

When considering whether to grant or refuse an application under section 329(3) of the *Act* to vary or revoke a disapplication order, the *FCA* will take into account all the relevant circumstances. These may include, but are not limited to:

- (1) any steps taken by the *person* to rectify the circumstances which gave rise to the original order;
- (2) whether the *person* has ceased to present the risk to *clients* and *consumers* or to the *FCA's statutory objectives* which gave rise to the original order;
- (3) the circumstances giving rise to the original order and any additional information which, had it been known by the *FCA*, would have been relevant to the decision to make the order;
- (4) the amount of time which has elapsed since the order was made.

16.3.2

The *FCA* will not generally grant an application to vary a disapplication order unless it is satisfied that the proposed variation will not result in the *person* presenting the same degree of risk to *clients* or *consumers* that originally gave rise to the order to disapply the exemption. Similarly, the *FCA* will not revoke a disapplication order unless and until it is satisfied that the *person* concerned is fit and proper to carry out *exempt regulated activities* generally or those specific *exempt regulated activities* in relation to which the exemption has been disapplied.