

Chapter 19

Non-FSMA powers

19.2 Friendly Societies Act 1974 (FSA74), Friendly Societies Act 1992 (FSA92), Co-operative and Community Benefit Societies Act 2014 (CCBSA14) and Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 (CCBSA(NI)69)

- 19.2.1** The *FCA* has certain functions in relation to what are described as "registrant-only" mutual societies including *registered societies* or *registered friendly societies*. These societies are not regulated or supervised under the *Act*. Instead, they are subject to the provisions of FSA74, FSA92, CCBSA14 and CCBSA(NI)69 which require them to register with the *FCA* and fulfil certain other obligations, such as the requirement to submit annual returns.
- 19.2.1A** The Financial Services Act 2012 (Mutual Societies) Order 2018 is effective from 6 April 2018 and transfers the Northern Ireland registration function to the *FCA*. The *FCA* will be therefore registering Northern Ireland's industrial and provident or co-operative and *community benefit societies* respectively under the CCBSA(NI)69 as modified by the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 and the Financial Services Act 2012 (Mutual Societies) Order 2018.
- 19.2.2** [deleted]
- 19.2.3** The *FCA*'s enforcement activities in respect of registrant-only societies focus on prosecuting societies that fail to submit annual returns. As registrant-only societies are not subject to the *rules* imposed by the *Act* and by the *FCA Handbook*, the requirement that they submit annual returns provides an important check that the interests and investments of members, potential members, creditors and other interested parties are being safeguarded. The power to prosecute registrant-only societies who fail to meet this requirement is therefore an important tool and one which the *FCA* is committed to using in appropriate cases.
- 19.2.4** [deleted]

19.2.5 The *FCA* may also use its power to petition for the society's winding up where it has prosecuted a society but the society continues to fail to submit the outstanding annual returns or defaults on submitting further returns.

19.2.6 The decision whether to initiate criminal and other proceedings under these Acts will be taken in accordance with the procedure described in ■ EG 12.1.7. Under these Acts, a society may appeal certain decisions of the *FCA* relating to the refusal, cancellation or suspension of a society's registration to the High Court or, in Scotland, the Court of Session. Distinguishing features of the procedure for giving statutory notices under the FSA92, including available rights of reference to the *Tribunal*, are set out in ■ DEPP 2.5.18G.

19.2.7 Further information about the *FCA*'s powers under these Acts can be found on the *FCA*'s website.

[Note: <https://www.fca.org.uk/firms/mutual-societies>]