

Chapter 19

Non-FSMA powers



19.20 Payment Services Regulations 2017

- 19.20.1** The *FCA* has investigation and sanctioning powers in relation to both criminal and civil breaches of the *Payment Services Regulations*. The *Payment Services Regulations* impose requirements including, amongst other things, obligations on *payment service providers* to provide users with a range of information and various provisions regulating the rights and obligations of payment service users and providers.
- 19.20.2** The *FCA's* approach to enforcing the *Payment Services Regulations* will mirror its general approach to enforcing the *Act*, as set out in ■ EG 2. It will seek to exercise its enforcement powers in a manner that is transparent, proportionate, responsive to the issue, and consistent with its publicly stated policies. It will also seek to ensure fair treatment when exercising its enforcement powers. Finally, it will aim to change the behaviour of the *person* who is the subject of its action, to deter future non-compliance by others, to eliminate any financial gain or benefit from non-compliance, and where appropriate, to remedy the harm caused by the non-compliance.
- 19.20.3** The regulatory powers which the *Payment Services Regulations* provide to the *FCA* include:
- the power to require information;
 - powers of entry and inspection;
 - power of public censure;
 - the power to impose financial penalties;
 - the power to prosecute or fine unauthorised providers; and
 - the power to vary an authorisation on its own initiative.
- 19.20.4** The *FCA* also has the power to prohibit or restrict the carrying out of certain *regulated activities* by *EEA authorised payment institutions* and *EEA registered account information service providers*.
- 19.20.5** The *Payment Services Regulations*, for the most part, mirror the *FCA's* investigative, sanctioning and regulatory powers under the *Act*. The *FCA* has decided to adopt procedures and policies in relation to the use of those powers akin to those it has under the *Act*. Key features of the *FCA's* approach are described below.