

# Chapter 19

## Non-FSMA powers

	<div><div></div><div>19.22</div><div>Decision making under the Payment Services Regulations</div></div>
19.22.1	<p>The <i>RDC</i> is the <i>FCA</i>'s decision maker for some of the decisions under the <i>Payment Services Regulations</i> as set out in ■ DEPP 2 Annex 1G. This builds a layer of separation into the process to help ensure not only that decisions are fair but that they are seen to be fair. The <i>RDC</i> will make its decisions following the procedure set out in ■ DEPP 3.2 or, where appropriate, ■ DEPP 3.3 .</p>
19.22.2	<p>For decisions made by <i>executive procedures</i> the procedures to be followed will be those described in ■ DEPP 4.</p>
19.22.3	<p>The <i>Payment Service Regulations</i> do not require the <i>FCA</i> to have published procedures to launch criminal prosecutions. However, in these situations the <i>FCA</i> expects that it will normally follow its decision-making procedures for the equivalent decisions under the <i>Act</i>.</p>
19.22.4	<p>The <i>Payment Service Regulations</i> require the <i>FCA</i> to give third party rights as set out in section 393 of the <i>Act</i> and to give access to certain material as set out in section 394 of the <i>Act</i>.</p>
19.22.5	<p>Certain <i>FCA</i> decisions (for example the cancellation of an authorisation or the imposition of a financial penalty) may be referred to the <i>Tribunal</i> by an aggrieved party.</p>
	<p><b>Imposition of penalties under the Payment Services Regulations</b></p>
19.22.6	<p>When imposing a financial penalty the <i>FCA</i>'s policy includes having regard to the relevant factors in ■ DEPP 6.2 and ■ DEPP 6.4. The <i>FCA</i>'s policy in relation to determining the level of a financial penalty includes having regard, where relevant, to ■ DEPP 6.5 to ■ DEPP 6.5D.</p>
19.22.7	<p>As with cases under the <i>Act</i>, the <i>FCA</i> may settle or mediate appropriate cases involving civil breaches of the <i>Payment Services Regulations</i> to assist it to exercise its functions under the Regulations in the most efficient and economic way. See ■ DEPP 5, ■ DEPP 6.7 and ■ EG 5 for further information on the settlement process and the settlement discount scheme.</p>

**Statement of policy in section 169(7) interviews (as  
implemented by the Payment Services Regulations)****19.22.8**

The *Payment Services Regulations* apply section 169 of the *Act* which requires the *FCA* to publish a statement of policy on the conduct of certain interviews in response to requests from overseas regulators. For the purposes of the *Payment Services Regulations* the *FCA* will follow the procedures described in ■ [DEPP 7](#).