

Chapter 2

The FCA's approach to enforcement

2.1 Case selection and the use of enforcement powers

2.1.1 The *FCA's* effective and proportionate use of its enforcement powers plays an important role in the pursuit of its *statutory objectives*, including its operational objectives of securing an appropriate degree of protection for *consumers*, protecting and enhancing the integrity of the *UK financial system*, and promoting effective competition in the interests of consumers. For example, using enforcement helps to contribute to the protection of *consumers* and to deter future contraventions of *FCA* and other applicable requirements and *financial crime*. It can also be a particularly effective way, through publication of enforcement outcomes, of raising awareness of regulatory standards.

2.1.2 There are a number of principles underlying the *FCA's* approach to the exercise of its enforcement powers:

- (1) The effectiveness of the regulatory regime depends to a significant extent on maintaining an open and co-operative relationship between the *FCA* and those it regulates.
- (2) The *FCA* 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.
- (3) The *FCA* will seek to ensure fair treatment when exercising its enforcement powers.
- (4) The *FCA* 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.

2.1.3 Enforcement is only one of a number of regulatory tools available to the *FCA*. As a risk based regulator with limited resources, throughout its work the *FCA* prioritises its resources in the areas which pose the biggest threat to its *statutory objectives*. This applies as much to the enforcement tool as it does to any other tool available to it. The next section of this chapter summarises how in practice the *FCA* takes a risk based approach towards its use of the enforcement tool, and the subsequent sections comment on other aspects of the *FCA's* approach to enforcement.

2.1.4

Where a *firm* or other *person* has failed to comply with the requirements of the *Act*, the *rules*, or other relevant legislation, it may be appropriate to deal with this without the need for formal disciplinary or other enforcement action. The proactive supervision and monitoring of *firms*, and an open and cooperative relationship between *firms* and their supervisors, will, in some cases where a contravention has taken place, lead the *FCA* to decide against taking formal disciplinary action. However, in those cases, the *FCA* will expect the *firm* to act promptly in taking the necessary remedial action agreed with its supervisors to deal with the *FCA's* concerns. If the *firm* does not do this, the *FCA* may take disciplinary or other enforcement action in respect of the original contravention.