

Chapter 2

The FCA's approach to enforcement

2.15 Decision making in the context of regulatory enforcement action

- 2.15.1** When the *FCA* is proposing to exercise its regulatory enforcement powers, the *Act* generally requires the *FCA* to give *statutory notices* (depending on the nature of the action, a *warning notice* and *decision notice* or *supervisory notice*) to the subject of the action. The person to whom a *warning notice* or *supervisory notice* is given has a right to make representations on the *FCA*'s proposed decision.
- 2.15.2** The procedures the *FCA* will follow when giving *supervisory notices*, *warning notices* and *decision notices* are set out in ■ DEPP 1 to ■ 5. Under these procedures, the decisions to issue such notices in contested enforcement cases are generally taken by the *RDC*, an *FCA* Board committee that is appointed by, and accountable to, the *FCA* Board for its decisions generally. Further details about the *RDC* can be found in ■ DEPP 3 and on the pages of the *FCA* web site relating to the *RDC*. However, decisions on settlements and *statutory notices* arising from them are taken by two members of the *FCA*'s senior management, under a special settlement decision procedure (see ■ chapter 5).
- 2.15.3** A person who receives a *decision notice* or *supervisory notice* has a right to refer the matter to the *Tribunal* within prescribed time limits. The *Tribunal* is independent of the *FCA* and members of the *Tribunal* are appointed by the Lord Chancellors Department. Where a matter has been referred to it, the *Tribunal* will determine what action, if any, it is appropriate for the *FCA* to take in relation to that matter. Further details about the *Tribunal* can be found in an item on the *Tribunal* on the Enforcement pages of the *FCA* web site and on the *Tribunal*'s own web site.