

Chapter 2

The FCA's approach to enforcement

2.4 Case selection: Unauthorised business

2.4.1 Where this poses a significant risk to the *consumer* protection objective or to the *FCA's* other *regulatory objectives*, *unauthorised* activity will be a matter of serious concern for the *FCA*. The *FCA* deals with cases of suspected *unauthorised* activity in a number of ways and it will not use its investigation powers and/or take enforcement action in every single instance.

2.4.2 The *FCA's* primary aim in using its investigation and enforcement powers in the context of suspected *unauthorised* activities is to protect the interests of *consumers*. The *FCA's* priority will be to confirm whether or not a *regulated activity* has been carried on in the United Kingdom by someone without *authorisation* or exemption, and, if so, the extent of that activity and whether other related contraventions have occurred. It will seek to assess the risk to *consumers'* assets and interests arising from the activity as soon as possible.

2.4.3 The *FCA* will assess on a case-by-case basis whether to carry out a formal investigation, after considering all the available information. Factors it will take into account include:

- (1) the elements of the suspected contravention or breach;
- (2) whether the *FCA* considers that the *persons* concerned are willing to co-operate with it;
- (3) whether obligations of confidentiality inhibit individuals from providing information unless the *FCA* compels them to do so by using its formal powers;
- (4) whether the *person* concerned has offered to undertake or undertaken remedial action.