

Chapter 20

Enforcement of the Consumer Credit Act 1974



20.1 Introduction

20.1.1

The *CCA Order* gives the *FCA* the power to enforce the *CCA* through the application of its investigation and sanctioning powers in the *Act* by reference to the contravention of *CCA Requirements* and criminal offences under the *CCA*. The *FCA*'s investigation and sanctioning powers include the following:

- power to censure or fine an approved person, or impose a suspension or a restriction on their approval under section 66 of the *Act*, for being knowingly concerned in a contravention by the relevant *authorised person* of a *CCA Requirement*;
- power to require information and documents, under section 165 of the *Act*, it reasonably requires in connection with the exercise of the functions conferred on it by the *CCA Order*;
- power to appoint an investigator under section 167 of the *Act* for reasons related to its functions under the *CCA Order*;
- power to appoint an investigator under section 168 of the *Act* where there are circumstances suggesting that an offence under the *CCA* may have been committed or that a person may have failed to comply with a *CCA Requirement*;
- power to impose a requirement under section 196 of the *Act* on an *incoming firm* by reference to the contravention or likely contravention of a *CCA Requirement*;
- power to censure (under section 205 of the *Act*) or fine (under section 206 of the *Act*) an authorised person, or impose a suspension or restriction on their permission (under section 206A of the *Act*) for the contravention of a *CCA Requirement*;
- power to apply to the court for an injunction under section 380 of the *Act* by reference to the contravention or likely contravention of a *CCA Requirement*;
- power to apply to the court for a restitution order under section 382 of the *Act* by reference to the contravention of a *CCA Requirement*;
- power to impose a restitution requirement under section 384 of the *Act* by reference to the contravention of a *CCA Requirement*; and
- power to prosecute under section 401 of the *Act* an offence committed under the *CCA*.

20.1.2

The *FCA*'s approach to taking enforcement action under the *CCA Order* 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.

20.1.3

The *FCA* has decided to adopt procedures and policies that it currently has in place for the enforcement of the *Act* in exercising its powers to enforce the *CCA*. Key features of the *FCA*'s approach are described below.