

Chapter 4

Conduct of investigations

4.13 Preliminary findings letters and preliminary investigation reports

4.13.1 In cases where the *FCA* proposes to submit an investigation report to the *RDC* with a recommendation for regulatory action, the *FCA*'s usual practice is to send a preliminary findings letter to the subject of an investigation before the matter is referred to the *RDC*. The letter will normally annex the investigators' preliminary investigation report. Comment will be invited on the contents of the preliminary findings letter and the preliminary investigation report.

4.13.2 The *FCA* recognises that preliminary findings letters serve a very useful purpose in focussing decision making on the contentious issues in the case. This in turn makes for better quality and more efficient decision making. However, there are exceptional circumstances in which the *FCA* may decide it is not appropriate to send out a preliminary findings letter. This includes:

- (1) where the subject consents to not receiving a preliminary findings letter; or
- (2) where it is not practicable to send a preliminary findings letter, for example where there is a need for urgent action in the interests of consumer protection, restoring market confidence or reducing *financial crime* or if the whereabouts of the subject are unknown; or
- (3) where the *FCA* believes that no useful purpose would be achieved in sending a preliminary findings letter, for example where it has otherwise already substantially disclosed its case to the subject and the subject has had an opportunity to respond to that case.

4.13.3 In cases where it is sent, the preliminary findings letter will set out the facts which the investigators consider relevant to the matters under investigation (normally, as indicated above, by means of an annexed preliminary investigation report). And it will invite the *person* concerned to confirm that those facts are complete and accurate, or to provide further comment. *FCA* staff will allow a reasonable period (normally 28 days) for a response to this letter, and will take into account any response received within the period stated in the letter. They are not obliged to take into account any response received outside that period. If a *firm* or individual requests an extension to the period for responding to the preliminary findings report, the *FCA* will take into account all relevant factors, including the legal and factual complexity of the case, and whether there are any factors outside the control

of the *firm* or individual that would materially impact on their ability to respond within the period set out in the preliminary findings letter.

4.13.4

Where the *FCA* has sent a preliminary findings letter and it then decides not to take any further action, the *FCA* will communicate this decision promptly to the person concerned.