

Enforcement Guide

Chapter 6

Publicity

6.1 Publicity during FCA investigations

- 6.1.1** The *FCA* will not normally make public the fact that it is or is not investigating a particular matter, or any of the findings or conclusions of an investigation except as described in other sections of this chapter. The following paragraphs deal with the exceptional circumstances in which the *FCA* may make a public announcement that it is or is not investigating a particular matter.
- 6.1.2** Where the matter in question has occurred in the context of a *takeover bid*, and the following circumstances apply, the *FCA* may make a public announcement that it is not investigating, and does not propose to investigate, the matter. Those circumstances are where the *FCA*:
- (1) has not appointed, and does not propose to appoint, investigators; and
 - (2) considers (following discussion with the *Takeover Panel*) that such an announcement is appropriate in the interests of preventing or eliminating public uncertainty, speculation or rumour.
- 6.1.3** Where it is investigating any matter, the *FCA* will, in exceptional circumstances, make a public announcement that it is doing so if it considers such an announcement is desirable to:
- (1) maintain public confidence in the *financial system* or the market; or
 - (2) protect *consumers* or investors; or
 - (3) prevent widespread malpractice; or
 - (4) help the investigation itself, for example by bringing forward witnesses; or
 - (5) maintain the smooth operation of the market.
- In deciding whether to make an announcement, the *FCA* will consider the potential prejudice that it believes may be caused to any *persons* who are, or who are likely to be, a subject of the investigation.
- 6.1.4** The exceptional circumstances referred to above may arise where the matters under investigation have become the subject of public concern, speculation or rumour. In this case it may be desirable for the *FCA* to make public the fact of its investigation in order to allay concern, or contain the speculation

or rumour. Where the matter in question relates to a *takeover bid*, the *FCA* will discuss any announcement beforehand with the *Takeover Panel*. Any announcement will be subject to the restriction on disclosure of confidential information in section 348 of the *Act*.

6.1.5

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6.1.6

The *FCA* will not normally publish details of the information found or conclusions reached during its investigations. In many cases, statutory restrictions on the disclosure of information obtained by the *FCA* in the course of exercising its functions are likely to prevent publication (see section 348 of the *Act*). In exceptional circumstances, and where it is not prevented from doing so, the *FCA* may publish details. Circumstances in which it may do so include those where the fact that the *FCA* is investigating has been made public, by the *FCA* or otherwise, and the *FCA* subsequently concludes that the concerns that prompted the investigation were unwarranted. This is particularly so if the *firm* under investigation wishes the *FCA* to clarify the matter.