

Chapter 7

Financial penalties and other disciplinary sanctions

7.1 The FCA's use of sanctions

7.1.1

Financial penalties, suspensions, restrictions, conditions, limitations, disciplinary prohibitions, and *public censures* are important regulatory tools. However, they are not the only tools available to the *FCA*, and there will be many instances of non-compliance which the *FCA* considers it appropriate to address without the use of formal disciplinary sanctions. Still, the effective and proportionate use of the *FCA's* powers to enforce the requirements of the *Act*, the *rules*, *COCON* and the Statements of Principle for Approved Persons (APER) will play an important role in the *FCA's* pursuit of its *statutory objectives*. Imposing disciplinary sanctions shows that the *FCA* is upholding regulatory standards and helps to maintain market confidence and deter *financial crime*. An increased public awareness of regulatory standards also contributes to the protection of *consumers*.

7.1.2

The *FCA* has the following powers to impose sanctions.

- (1) It may publish a statement:
 - (a) against an *approved person* or *conduct rules staff* under section 66 of the *Act*;
 - (b) against an *issuer* under section 87M of the *Act*;
 - (c) against a *sponsor* under section 88A of the *Act*;
 - (ca) against a *primary information provider* under section 89Q of the *Act*;
 - (d) where there has been a contravention of the *Part 6 rules*, under section 91 of the *Act*;
 - (e) against a *person* under section 123 of the *Act*;
 - (ea) if a natural or legal person has contravened any provision of the *short selling regulation*, or any requirement imposed on that person under section 131E or 131F, under section 131G of the *Act*;
 - (eb) against a qualifying parent undertaking under section 192K of the *Act*;
 - (ec) against an auditor under section 249 of the *Act*;
 - (ed) against a *recognised investment exchange* under section 312E of the *Act*;
 - (ee) against an auditor and/or an *actuary* under section 345 of the *Act*; and
 - (f) against a *firm*, or an *unauthorised person* to whom section 404C applies, under section 205 of the *Act*.

- (2) It may impose a financial penalty:
 - (a) on a *person* that performs a *controlled function* without approval, under section 63A of the *Act*;
 - (aa) on an *approved person* or *conduct rules staff*, under section 66 of the *Act*;
 - (ab) on a *sponsor* under section 88A of the *Act*;
 - (ac) on a *primary information provider* under section 89Q of the *Act*;
 - (b) where there has been a contravention of the *Part 6 rules*, under section 91 of the *Act*;
 - (c) on a *person*, under section 123 of the *Act*;
 - (ca) on a natural or legal person who has contravened any provision of the *short selling regulation*, or any requirement imposed on that person under section 131E or 131F, or any natural or legal person who was knowingly concerned in the contravention, under section 131G of the *Act*;
 - (cb) on a qualifying parent undertaking under section 192K of the *Act*;
 - (d) on a *firm*, or an *unauthorised person* to whom section 404C applies, under section 206 of the *Act*;
 - (da) on an auditor under section 249 of the *Act*;
 - (db) on a *recognised investment exchange* under section 312F of the *Act*; and
 - (dc) on an auditor and/or *actuary* under section 345 of the *Act*.
- (3) It may impose a suspension, *limitation* or other restriction:
 - (a) [deleted]
 - (b) on a *sponsor* under section 88A of the *Act*;
 - (c) on a *primary information provider* under section 89Q of the *Act*; and
 - (d) on an *authorised person* under sections 123B or 206A of the *Act*.
- (4) It may impose a suspension, condition or limitation on an *approved person* under section 66 of the *Act*.
- (5) It may impose a disciplinary prohibition on an individual under section 123A of the *Act*.

7.1.3

Section 415B of the *Act* requires the *FCA* to consult with the *PRA* before it takes certain enforcement action in relation to a *PRA-authorised person* or someone who has a qualifying relationship (as defined in section 415B(4) of the *Act*) with a *PRA-authorised person*. Further detail on when the *FCA* is required to consult the *PRA*, and when it has agreed to notify the *PRA* of certain matters, is set out in the Memorandum of Understanding between the *PRA* and the *FCA*.