

Chapter 8

Variation and cancellation of permission and imposition of requirements on the FCA's own initiative and intervention against incoming firms

8.1 Introduction

8.1.1

The *FCA* has powers under section 55J of the *Act* to vary or cancel an *authorised person's Part 4A permission* and a power under section 55L to impose requirements on an authorised person. The *FCA* may use these powers where:

- (1) the person is failing or is likely to fail to satisfy the *threshold conditions* for which the *FCA* is responsible;
- (2) the person has not carried on a *regulated activity* to which the *Part 4A permission* relates for a period of at least 12 months (or six months in the case of a *full-scope UK AIFM*);
- (3) it is desirable to exercise the power in order to advance one or more of its operational objectives; or
- (4) the person has failed to comply with a requirement in Part 5 of the *AIFMD UK regulation* (AIFs which acquire *control* of non-listed companies and issuers), or it is for some other reason desirable to exercise the power for the purposes of ensuring compliance with such a requirement.

8.1.2

The powers to vary and cancel a person's *Part 4A permission* and to impose requirements are exercisable in the same circumstances. However, the statutory procedure for the exercise of the *own-initiative powers* is different to the statutory procedure for the exercise of the cancellation power and this may determine how the *FCA* acts in a given case. Certain types of behaviour which may cause the *FCA* to cancel permission in one case, may lead it to impose requirements, vary, or vary and cancel, permission in another, depending on the circumstances. The non-exhaustive examples provided below are therefore illustrative but not conclusive of which action the *FCA* will take in a given case.