

Statement of policy with respect to the making of temporary product
intervention rules

Chapter 2

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2.4 Temporary product intervention rules

- 2.4.1** **G** Normally the *FCA* must consult the public before making any *rules*. However, the *Act* allows a general exemption in section 138L where the *FCA* considers that the delay involved in complying with the requirement to consult would be prejudicial to the interests of *consumers*.
- 2.4.2** **G** There is also a specific exemption to the consultation requirement in relation to making *temporary product intervention rules* (section 138M of the *Act*). The *FCA* may make *temporary product intervention rules* without consultation if it considers that it is necessary or expedient not to comply with such a requirement to advance:
- (1) the consumer protection objective, or
 - (2) the competition objective, or
 - (3) the market integrity objective.
- 2.4.3** **G** The *FCA's* discretion to act under section 138M is therefore wider than under section 138L.
- 2.4.4** **G** Decisions to make any *rules*, including *temporary product intervention rules*, will be taken by the *FCA* Board. In doing so, the *FCA* Board will have regard to all the available, relevant evidence, as well as the impact of the measure to be introduced by the *rule*.
- 2.4.5** **G** The *FCA* Board will consider whether the evidence is sufficient to support the proposed measure and whether the measure is a proportionate response to the issue identified.
- 2.4.6** **G** In publishing *temporary product intervention rules* the *FCA* will also publish the rationale for these *rules*.