

Chapter 6

Warning and decision notices



6.1 Application and purpose

Application

6.1.1 **G** This chapter contains guidance for *issuers* and *owners* and other persons subject to the *RCB Regulations*.

Purpose

6.1.2 **G** The purpose of this chapter is to set out the *FCA's* statement of the procedure which it proposes to follow on giving *warning notices* and *decision notices* in relation to *regulated covered bonds*.

6.2 Policy on decision and warning notices

Decision and warning notices

6.2.1 **G** When making a decision on an application for registration under the *RCB Regulations*, or in relation to material changes to the contractual terms of the *regulated covered bond*, or in relation to a change of owner, or when seeking to use direction, revocation or penalty powers, the *RCB Regulations* require the *FCA* to give the subject of the intended action a *warning notice* and a *decision notice*. The recipient of a *warning notice* has the right to make representations to the decision maker, and may refer the decision to give a *decision notice* to the *Tribunal*.

6.2.2 **G** Regulation 44 of the *RCB Regulations* (Warning notices and decision notices) applies Part XXVI of the *Act* (Notices) in respect of notices that we give under the *RCB Regulations*. This means that the provisions of section 393 of the *Act* (Third party rights) and section 394 of the *Act* (Access to Authority material) apply to penalty procedures under the *RCB Regulations* and that, if the matter is not referred to the *Tribunal*, then upon taking the action to which a *decision notice* relates, the *FCA* will issue the subject of the decision notice a *final notice*. The *FCA* is required to publish such details about the matter to which a *final notice* relates as it considers appropriate.

FCA decision maker

6.2.3 **G** ■ DEPP 2 Annex 1 G identifies the relevant decision maker in relation to *warning notices* and *decision notices* issued by the *FCA* under the *RCB Regulations*.

6.2.4 **G** Decisions on applications for registration, in relation to material changes to contractual terms of the *regulated covered bond*, or in relation to a change of owner, or decisions to issue a direction under the *RCB Regulations* or to revoke an *issuer's* registration, will be taken under *executive procedures* following the process set out in ■ DEPP 4.

6.2.5 **G** Decisions to impose a financial penalty under regulation 34 of the *RCB Regulations* will be taken by the *RDC* under the procedure set out in ■ DEPP 3.2 or, where relevant, ■ DEPP 3.3.

