

## Chapter 6A

# Permission to approve financial promotions



## 6A.3 FCA's own-initiative power

- 6A.3.1** G Where the *FCA* grants *approver permission* to a *firm* under section 55NA of the *Act*, the *FCA* may vary the terms of that permission, or cancel it:
- (1) on the application of the *firm* to whom it was given; or
  - (2) on the *FCA's* own initiative, if it appears to the *FCA* that:
    - (a) the *firm* has failed, during a period of at least 12 months, to give, or to refuse to give, any *approvals* in accordance with its *approver permission*. In practice, this might arise where:
      - (i) the *firm* does not appear to have assessed any *financial promotions* for the purposes of potential *approval* for a period of at least 12 months; or
      - (ii) the *firm* has only *approved* (or refused to *approve*) *financial promotions* of a substantially narrower description than the kinds for which it has *approver permission*; or
    - (b) it is desirable to do so in order to advance one or more of its *operational objectives*.

[Note: section 55NA(8) of the *Act*]

- 6A.3.2** G In deciding whether to vary or cancel a *firm's approver permission* on its own initiative, the *FCA* will take into account all relevant factors in relation to the *firm's* business. This may include its business model, the commercial environment and any legitimate explanation for the manner in which the *firm* has used its *approver permission* or for its failure to use its *approver permission*.

- 6A.3.3** G
- (1) The *FCA* will consult the *PRA* before varying or cancelling, on the *FCA's* own initiative, the terms of the *approver permission* of a *PRA-authorized person* or a member of a *group* which includes a *PRA-authorized person*.
  - (2) Where the *FCA* varies the terms of, or cancels, the *approver permission* of a Gibraltar-based person on its own initiative, the *FCA* is not obliged to consult with the Gibraltar regulator but the *FCA* will inform the Gibraltar regulator in writing of the variation or cancellation.

[Note: section 55NA(9) and (10) of the *Act*]

- 6A.3.4** **G**
- (1) If the *FCA* exercises its power to vary the terms of a *firm's approver permission* on its own initiative, it will do so by issuing a *supervisory notice*.
  - (2) If the *FCA* proposes to cancel a *firm's approver permission* on its own initiative, it will give the *firm* a *warning notice* and, where the *FCA* decides to cancel, it will give the *firm* a *decision notice*.
  - (3) The procedure that will be followed in each case is set out in **■ DEPP 2**.

**6A.3.5** **G** A *firm* has a right of referral to the *Tribunal* in respect of the *FCA* exercising its power to vary or cancel a *firm's approver permission* on its own initiative.