

Chapter 7

Individual requirements

7.3 Criteria for varying a firm's permission or imposing, varying or cancelling requirements on the FCA's own initiative

7.3.1

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The FCA expects to maintain a close working relationship with certain types of *firm* and expects that routine supervisory matters arising can be resolved during the normal course of this relationship by, for example, issuing individual *guidance* where appropriate (see ■ SUP 9.3). However, where the FCA deems it appropriate, it will exercise its *own-initiative powers*:

- (1) in circumstances where it considers it appropriate for the *firm* to be subject to a formal *requirement*, breach of which could attract enforcement action; or
- (2) if a variation is needed to enable the *firm* to comply with the *requirement*, due to agreements the *firm* may have with third parties. (For example a *firm* may be under a contractual obligation to do something, but only if it can do so lawfully. In this case, if the FCA considers the *firm* must not do it, then the FCA would need to prevent it doing so through a variation in its *Part 4A permission* to enable the *firm* to avoid breaching the contractual obligation.)

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The FCA may also seek to exercise its *own-initiative powers* in certain situations, including the following:

- (1) If the FCA determines that a *firm's* management, business or *internal controls* give rise to material risks that are not fully addressed by existing requirements, the FCA may seek to use its *own-initiative powers*.
- (2) If a *firm* becomes or is to become involved with new products or selling practices which present risks not adequately addressed by existing requirements, the FCA may seek to vary the *firm's Part 4A permission* in respect of those risks.
- (3) If there has been a change in a *firm's* structure, *controllers*, activities or strategy which generate material uncertainty or create unusual or exceptional risks, then the FCA may seek to use its *own-initiative powers*. (See also ■ SUP 11.7 for a description of the FCA's ability to impose a requirement on the acquisition of *control* of a *firm* under section 55O of the Act.)
- (4) At the request of, or to assist an overseas regulator as set out in section 55Q of the Act.

		(5) The <i>FCA</i> may separately exercise its <i>additional own-initiative variation power</i> , as described in ■ SUP 7.2.2AG to ■ SUP 7.2.2DG and ■ SUP 7.2.3AG.
7.3.3	G	<p>Pursuant to sections 55L, 55N, 55O, 55P and 55Q of the <i>Act</i>, within the scope of its functions and powers, the <i>FCA</i> may seek to impose <i>requirements</i> which include but are not restricted to:</p> <ul style="list-style-type: none"> (1) requiring a <i>firm</i> to submit regular reports covering, for example, trading results, management accounts, <i>customer</i> complaints, connected party transactions; (2) where appropriate, requiring a <i>firm</i> to maintain prudential limits, for example on large <i>exposures</i>, foreign currency <i>exposures</i> or liquidity gaps; (3) requiring a <i>firm</i> to submit a business plan; (4) limiting the <i>firm's</i> activities; (5) requiring an <i>FCA-authorised person</i> to maintain a particular amount or type of financial resources.
7.3.4	G	<p>The <i>FCA</i> will seek to give a <i>firm</i> reasonable notice of an intent to vary its <i>permission</i> or impose a <i>requirement</i> and, except when exercising its <i>additional own-initiative variation power</i>, to agree with the <i>firm</i> an appropriate timescale. However, if the <i>FCA</i> considers that a delay may create a risk to any of the <i>FCA's statutory objectives</i>, the <i>FCA</i> may need to act immediately using its powers under section 55J and/or 55L of the <i>Act</i> with immediate effect.</p>