

**CHANGES TO DECISION MAKING FOR STATUTORY NOTICE PROCEDURE  
INSTRUMENT 2021**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 63C (Statement of policy);
  - (2) section 69 (Statement of policy);
  - (3) section 88C (Action under s.88A: statement of policy);
  - (4) section 89S (Action under s.89Q: statement of policy);
  - (5) section 93 (Statement of policy);
  - (6) section 124 (Statement of policy);
  - (7) section 131J (Imposition of penalties under section 131G: statement of policy);
  - (8) section 137T (General supplementary powers);
  - (9) section 139A (Power of the FCA to give guidance);
  - (10) section 192N (Imposition of penalties under section 192K: statement of policy);
  - (11) section 210 (Statements of policy);
  - (12) section 312J (Statement of policy);
  - (13) section 345D (Imposition of penalties on auditors or actuaries: statement of policy); and
  - (14) section 395 (The FCA’s and PRA’s procedures).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 26 November 2021.

**Amendments to the Handbook**

- D. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with Annex A to this instrument.
- E. The Enforcement Guide (EG) is amended in accordance with Annex B to this instrument.

**Citation**

- F. This instrument may be cited as the Changes to Decision Making for Statutory Notice Procedure Instrument 2021.

By order of the Board  
25 November 2021

## Annex A

### Amendments to the Decision Procedure and Penalties manual (DEPP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

#### 1 Application and Purpose

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#### 1.2 Introduction to statutory notices

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The decision makers

1.2.5 G Decisions on whether to give a *statutory notice* will be taken by a ‘decision maker’. The *FCA*’s assessment of who is the appropriate decision maker is subject to the requirements of section 395 of the *Act* and will depend upon the nature of the decision, including its complexity, importance and urgency. References to the ‘decision maker’ in *DEPP* are to:

- (1) ~~the *Regulatory Decisions Committee (RDC)*~~ *FCA* staff under *executive procedures*; or
- (2) ~~*FCA* staff under *executive procedures*~~ the *Regulatory Decisions Committee (RDC)*; or
- (3) *FCA* staff under the *settlement decision procedure*.

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#### 2 Statutory notices and the allocation of decision making

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#### 2.1 Statutory notices

...

Consistent decision making

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2.1.4A G If a *statutory notice* decision is referred to the *RDC* which would otherwise be taken by *executive procedures* in accordance with *DEPP* 2.1.4G, the *RDC* will follow the procedure as set out at *DEPP* 3.2.

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## 2.3 Decision notices and second supervisory notices

Approach of decision maker

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2.3.1A G Notwithstanding DEPP 2.3.1G(2), FCA staff under executive procedures who are asked to decide whether to give a decision notice or second supervisory notice will consider oral representations only in exceptional circumstances where they determine that prohibiting oral representations are likely to impact on the fairness of the decision. This may include (but is not limited to) circumstances where:

- (1) the subject of the decision notice or second supervisory notice is not reasonably able to make written representations due to relevant personal circumstances; and/or
- (2) oral representations are required due to the urgency or complexity of the matter to be decided.

...

## 2.5 Provision for certain categories of decision

...

Different decision makers

2.5.2 G ~~The~~ In some circumstances, the decision to give a warning notice and a decision notice in a particular matter will often not be taken by the same decision maker. Certain types of action require that the warning notice decision be taken by FCA staff under executive procedures and the decision notice decision be taken by the RDC. Similarly For example, in enforcement cases the RDC might take the decision to give a warning notice, but the decision to give a decision notice could be taken by the settlement decision makers on the basis that the person concerned does not contest the action proposed (see DEPP 5).

...

2.5.5 G ~~If representations are made in response to a warning notice proposing any of the action actions set out at DEPP 2.5.3G(1), DEPP 2.5.3G(4), DEPP 2.5.3G(4A), DEPP 2.5.3G(4B) or DEPP 2.5.3G(5), then the RDC will take the decision to give a decision notice. DEPP 2.5.3G, then FCA staff under executive procedures will take the decision to give a decision notice.~~

2.5.5A G ~~If representations are made in response to a warning notice proposing the action set out at DEPP 2.5.3G(3B), FCA staff under executive procedures will take the decision to give a decision notice. [deleted]~~

- 2.5.6 G ~~If representations are made in response to a *warning notice* proposing the action set out at *DEPP 2.5.3G(2)*, *DEPP 2.5.3G(3)*, *DEPP 2.5.3G(3A)*, or *DEPP 2.5.3G(6)*, then the *RDC* will take the decision to give a *decision notice* if the action involves a fundamental variation or requirement (see *DEPP 2.5.8G*). Otherwise, the decision to give the *decision notice* will be taken by *FCA* staff under *executive procedures*. [deleted]~~

...

FCA's own-initiative powers

- 2.5.7 G ~~The *RDC* *FCA* staff under *executive procedures* will take the decision to give a *supervisory notice* exercising the *FCA*'s own-initiative powers (by removing a regulated activity, by imposing a limitation or requirement or by specifying a narrower description of regulated activity) if the action involves a fundamental variation or requirement, including where the action involves a fundamental variation or requirement (see *DEPP 2.5.8G*). Otherwise, the decision to give the *supervisory notice* will be taken by *FCA* staff under *executive procedures*.~~
- 2.5.7A G ~~Notwithstanding *DEPP 2.5.7G*, *FCA* staff under *executive procedures* will be the decision maker whenever when a firm agrees not to contest the *FCA*'s exercise of its own-initiative powers, including where the *FCA*'s action involves a fundamental variation or requirement, and when the exercise of the *FCA*'s own-initiative powers is contested by a firm.~~
- 2.5.7B G Any decision made by *FCA* staff under *executive procedures* to give a *supervisory notice* exercising the *FCA*'s own-initiative powers (by removing a regulated activity, by imposing a limitation or requirement or by specifying a narrower description of regulated activity) which involves a fundamental variation or requirement (see *DEPP 2.5.8G*) will be taken by a member of *FCA* staff of at least Director level (which may include an acting Director).

...

The FCA's power to vary SMF manager's approval on its own initiative

- 2.5.8A G ~~The *RDC* *FCA* staff under *executive procedures* will take the decision under section 63ZB of the *Act* to vary an approval given to an *SMF manager* (by imposing a condition, varying a condition, removing a condition or limiting the period for which the approval is to have effect).~~
- 2.5.8B G ~~Notwithstanding *DEPP 2.5.7G*, *FCA* staff under *executive procedures* will be the decision maker whenever when all of the interested parties (as defined by section 63ZC(6) of the *Act*) agree not to contest the *FCA*'s exercise of its power under section 63ZB of the *Act* and when the exercise of such powers is contested by any of the interested parties (as so defined).~~

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Decisions relating to imposition of limitations or other restrictions of sponsors and primary information providers

- 2.5.11A G Under section 88(4)(aa) of the *Act*, if the *FCA* proposes to impose limitations or other restrictions on the services to which a *sponsor's* approval relates, it must give him a *warning notice*. If, after considering any representations made in response to the *warning notice*, the *FCA* decides to impose limitations or other restrictions on the services to which a *sponsor's* approval relates, it must give him a *decision notice*. ~~Where the *sponsor* has requested or otherwise agrees to the limitation or other restriction, *FCA* staff under *executive procedures* will take the decision to give the *warning notice* and *decision notice* where the *sponsor* has requested or otherwise agrees to the limitation or other restriction and where the *sponsor* contests the imposition of the limitation or other restriction. Otherwise, the *RDC* will take the decision to give the *warning notice* and *decision notice*.~~
- 2.5.11B G If the *FCA* is proposing or deciding to refuse a *sponsor's* application for the withdrawal or variation of a limitation or other restriction on the services to which a *sponsor's* approval relates under section 88(8)(d) of the *Act*, the decision maker will be *FCA* staff under ~~*executive procedures* where *FCA* staff decided to impose the limitation or other restriction. Otherwise, the *RDC* will take the decision to give the *warning notice* and *decision notice*.~~ *executive procedures*.
- 2.5.11C G Under section 89P(5)(b) of the *Act*, if the *FCA* proposes to impose limitations or other restrictions on the dissemination of *regulated information* to which a *primary information provider's* approval relates, it must give him a *warning notice*. If, after considering any representations made in response to the *warning notice*, the *FCA* decides to impose limitations or other restrictions on the dissemination of *regulated information* to which a *primary information provider's* approval relates, it must give him a *decision notice*. ~~Where the *primary information provider* has requested or otherwise agrees to the limitation or other restriction, *FCA* staff under *executive procedures* will take the decision to give the *warning notice* and *decision notice* where the *primary information provider* has requested or otherwise agrees to the limitation or other restriction and where the *primary information provider* contests the imposition of the limitation or other restriction. Otherwise, the *RDC* will take the decision to give the *warning notice* and *decision notice*.~~
- 2.5.11D G Under section 89P(9)(d) of the *Act*, if the *FCA* is proposing or deciding to refuse a *primary information provider's* application for the withdrawal or variation of a limitation or other restriction on the dissemination of *regulated information* to which a *primary information provider's* approval relates, the decision maker will be *FCA* staff under *executive procedures*, ~~where *FCA* staff decided to impose the limitation or other restriction. Otherwise, the *RDC* will take the decision to give the *warning notice* and *decision notice*.~~

Modified procedures in collective investment scheme and certain other cases

- 2.5.12 G *FCA* staff will usually inform or discuss with the *person* concerned any action they contemplate before they recommend to ~~the RDC~~ *FCA* staff under executive procedures that the *FCA* takes formal action. The *FCA* may also be invited to exercise certain powers by the *persons* who would be affected by the exercise of those powers. In these circumstances if such decisions, including those referred to in DEPP 2.5.13G, will be taken by FCA staff under executive procedures if the *person* concerned has agreed to or accepted the action proposed ~~then the decisions referred to in DEPP 2.5.13G will be taken by FCA staff under executive procedures rather than by the RDC~~ and if the proposed action is not agreed.

...

- 2.5.15 G A decision to give a *warning notice* or *decision notice* refusing an application for an *authorisation order* declaring a *scheme* to be an *AUT*, *ACS* or *ICVC* or an *AUT*, *ACS* or *ICVC* to be a money market fund ~~will be taken by the RDC only if the application is by an authorised fund manager who is not the operator of an existing AUT, ACS or ICVC. Otherwise, the decision to give the warning notice or decision notice~~ will be taken by *FCA* staff under *executive procedures*, including if the application is by an authorised fund manager who is not the operator of an existing AUT, ACS or ICVC.

...

Notices under other enactments

...

- 2.5.18 G Some of the distinguishing features of notices given under enactments other than the *Act* are as follows:

...

- (5) The decision to give a written notice under section 55XA(1) of the *Act* will be taken by *FCA* staff under *executive procedures*. If the applicant decides to seek a review, by the *FCA*, of that decision, they can make representations to ~~the RDC~~ *FCA* staff under executive procedures. ~~If the RDC~~ *FCA* staff under executive procedures then ~~decides~~ decide under section 55XA(5) of the *Act* to confirm the first decision, or take a different decision of the type described by section 55XA(1) of the *Act*, it must give the applicant a written notice.
- (5A) The decision to impose or vary a direction under regulation 74C of the *Money Laundering Regulations* ~~will be taken by the RDC, if the direction involves a fundamental imposition or variation. Otherwise, the decision to give the supervisory notice~~ will be taken by *FCA* staff under *executive procedures*, including if the direction involves

a fundamental imposition or variation. *FCA* staff under *executive procedures* will be the decision maker ~~whenever~~ when a cryptoasset business does not contest the direction and when the direction is contested by a cryptoasset business. A fundamental imposition or variation of a direction means:

- (a) preventing a *cryptoasset business* from undertaking *cryptoasset business*; or
  - (b) imposing or varying a direction in relation to the *cryptoasset business*' assets, or refusing an application to vary or cancel such a direction.
- (6) *CRA Regulation*: Where the *FCA* is exercising its powers to refuse an application for registration under articles 16 or 17, or to refuse an application made by a *credit rating agency* to withdraw its registration under article 20(3), it must give a written notice in accordance with article 18(2). In these circumstances the decision to give a written notice under article 18(2) will be taken by *FCA* staff under *executive procedures*.

Where the *FCA* is exercising its powers to withdraw the registration of a *credit rating agency* on the *FCA*'s own initiative under article 20(1) or (2), or to give a direction under article 24(1), it must give a written notice in accordance with article 18(2). In these circumstances the decision to give a written notice under article 18(2) will be taken by ~~the RDC~~ *FCA* staff under *executive procedures*.

Upon receipt of a written notice under article 18(2) the *credit rating agency* may decide to seek a review or to refer the matter directly to the *Tribunal* under article 18A.

If the *credit rating agency* decides to seek a review of the decision set out in the article 18(2) notice, they can make representations to ~~the RDC~~ *FCA* staff under *executive procedures*. If ~~the RDC~~ *FCA* staff under *executive procedures* decide to maintain the original decision, the *credit rating agency* may refer the ~~RDC's~~ decision to do so to the *Tribunal*.

- (7) *Trade Repositories (EU Exit) Regulations*: Where the *FCA* is exercising its powers to refuse an application for registration of a *trade repository* under article 58 of *EMIR* or to refuse an application made by a *trade repository* to withdraw its registration under article 71(3) of *EMIR*, it must give a written notice in accordance with article 71a(6) of *EMIR*. In these circumstances the decision to give a written notice under article 71a(6) will be taken by *FCA* staff under *executive procedures*.

Where the *FCA* is exercising its powers to withdraw the registration of a trade repository on the *FCA*'s own initiative under article 71(1) or (2), it must give a written notice in accordance with article 71a(6). In these circumstances the decision to give a written notice



under article 71a(6) will be taken by ~~the RDC~~ FCA staff under executive procedures.

Upon receipt of a written notice under article 71a(6) the credit rating agency may decide to seek a review or to refer the matter directly to the *Tribunal* under article 71b.

If the *trade repository* decides to seek a review of the decision set out in the article 71a(6) notice, they can make representations to ~~the RDC~~ FCA staff under executive procedures. If ~~the RDC decides~~ FCA staff under executive procedures decide to maintain the original decision, the trade repository may refer the ~~RDC's~~ decision to do so to the *Tribunal*.

- (8) *Securitisation Regulation* (as amended by the *Securitisation (Amendment) (EU Exit) Regulations*): where the *FCA* exercises its powers to refuse an application for registration of a *securitisation repository* under article 12, or to refuse an application made by a *securitisation repository* to withdraw its registration under article 13a, it must give a written notice in accordance with article 13(6). In these circumstances, the decision to give a written notice under article 13(6) will be taken by *FCA* staff under *executive procedures*.

Where the *FCA* exercises its powers to withdraw the registration of a *securitisation repository* on its own initiative under article 13a, it must give a written notice in accordance with article 13(6)(b). In these circumstances, the decision to give a written notice under article 13(6)(b) will be taken by ~~the RDC~~ FCA staff under executive procedures.

Upon receipt of a written notice under regulation 13a, the *securitisation repository* may decide to seek a review or to refer the matter to the *Tribunal*. If the *securitisation repository* decides to seek a review of the decision set out in the regulation 13a notice, they can make representations to ~~the RDC~~ FCA staff under executive procedures. If ~~the RDC decides~~ FCA staff under executive procedures decide to maintain the original decision, the *securitisation repository* may refer the ~~RDC's~~ decision to do so to the *Tribunal*.

- (9) *Securities Financing Transactions Regulation* (as amended by the *SFTR (EU Exit) Regulations*): where the *FCA* is exercising its powers to refuse an application for registration of a *trade repository* under article 7 of the *Securities Financing Transactions Regulation* or to refuse an application made by a *trade repository* to withdraw its registration under article 10(3), it must give a written notice in accordance with article 10a(6). In these circumstances the decision to give a written notice under article 10a(6) will be taken by *FCA* staff under *executive procedures*.

Where the *FCA* is exercising its powers to withdraw the registration of a *trade repository* on the *FCA's* own initiative under article 10(1) or 10(2), it must give a written notice in accordance with article

10a(6)(b). In these circumstances, the decision to give a written notice under article 10a(6)(b) will be taken by ~~the RDC~~ FCA staff under executive procedures.

Upon receipt of a written notice under article 10 the *trade repository* may decide to seek a review or to refer the matter directly to the *Tribunal* under article 10b.

If the *trade repository* decides to seek a review of the decision set out in the article 10 notice, they can make representations to ~~the RDC~~ FCA staff under executive procedures. If ~~the RDC decides~~ FCA staff under executive procedures decide to maintain the original decision, the trade repository may refer the ~~RDC's~~ decision to do so to the *Tribunal*.

**2 Annex 1G Warning notices and decision notices under the Act and certain other enactments**

Note: Third party rights and access to *FCA* material apply to the powers listed in this Annex where indicated by an asterisk \* (see *DEPP 2.4*)

Section of the Act	Description	Handbook reference	Decision maker
...	...	...	...
55X(2)	when the <i>FCA</i> is proposing to refuse an application for the variation of a <i>requirement</i> imposed under section 55L or for the imposition of a new <i>requirement</i>		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> See <i>DEPP 2.5.6G</i> <u><i>Executive procedures</i></u>
55X(4)(a) 55X(4)(b)	when the <i>FCA</i> is deciding to grant an application for a <i>Part 4A permission</i> with a <i>limitation</i> or a <i>requirement</i> which was not applied for, or with a narrower description of <i>regulated activity</i> than that applied for		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> See <i>DEPP 2.5.6G</i> <u><i>Executive procedures</i></u>
55X(4)(c) 55X(4)(d)	when the <i>FCA</i> is deciding to grant an application to vary a <i>firm's Part 4A permission</i> but, other than as part of the application, to restrict the <i>Part 4A permission</i> (either by imposing a <i>limitation</i> or <i>requirement</i> which was not applied for or by specifying a narrower description of <i>regulated activity</i> than that applied for)	<i>SUP 6</i>	<del><i>RDC</i></del> or <del><i>executive procedures</i></del> See <i>DEPP 2.5.6G</i> <u><i>Executive procedures</i></u>
...			

55X(4)(f)	when the <i>FCA</i> is deciding to refuse an application for a <i>Part 4A permission</i>		<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u> See <i>DEPP 2.5.5G</i>
55X(4)(f)	when the <i>FCA</i> is deciding to refuse an application to vary a <i>firm's Part 4A permission</i>	<i>SUP 6</i>	<del>RDC</del> or <del>executive procedures</del> See <del><i>DEPP 2.5.6G</i></del> <u>Executive procedures</u>
55X(4)(f)	when the <i>FCA</i> is deciding to refuse an application to cancel a <i>firm's Part 4A permission</i>	<i>SUP 6</i>	<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u> See <i>DEPP 2.5.5G</i>
55X(4)(f)	When the <i>FCA</i> is deciding to refuse an application for the variation of a <i>requirement</i> imposed under section 55L or for the imposition of a new <i>requirement</i>		<del>RDC</del> or <del>RDC</del> or <del>executive procedures</del> See <del><i>DEPP 2.5.6G</i></del> <u>Executive procedures</u>
55Z(1) 55Z(2)	when the <i>FCA</i> is proposing or deciding to cancel a <i>firm's Part 4A permission</i> otherwise than at its request *		<del>RDC</del> <u>Executive procedures</u>
...			
62(3)	when the <i>FCA</i> is deciding to refuse an application for approval of a <i>person</i> performing a <i>controlled function</i> or to grant the application subject to conditions or for a limited period (or both)	<i>SUP 10A</i> and <i>SUP 10C</i>	<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u> See <i>DEPP 2.5.5G</i>
63(3)/(4)	when the <i>FCA</i> is proposing or deciding to withdraw approval from an <i>approved person</i> *		<del>RDC</del> <u>Executive procedures</u>

...			
63ZA(8) and 62(3)	when the <i>FCA</i> is deciding to refuse an application for variation of an approval granted to an <i>SMF manager</i> , subject to conditions	<i>SUP 10C</i>	<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u> See <i>DEPP 2.5.5G</i>
...			
88(4)(a) 88(6)(a) 88(8)(a)	when the <i>FCA</i> is proposing or deciding to refuse a <i>person's</i> application for approval as a <i>sponsor</i>	<i>LR 8</i>	<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
...			
88(4)(a) 88(6)(a) 88(8)(d)	when the <i>FCA</i> is proposing or deciding to refuse a <i>sponsor's</i> application for the withdrawal or variation of a limitation, or other restriction on the services to which a <i>sponsor's</i> approval relates		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u> See <i>DEPP 2.5.11BG</i>
88(4)(aa) 88(6)(aa)	when the <i>FCA</i> is proposing or deciding to impose limitations or restrictions on the services to which a <i>sponsor's</i> approval relates		<del><i>RDC</i></del> or <del><i>executive</i></del> <u><i>Executive procedures</i></u> See <i>DEPP 2.5.11AG</i>
88(4)(b) 88(6)(b)	when the <i>FCA</i> is proposing or deciding to cancel a <i>sponsor's</i> approval as a <i>sponsor</i> otherwise than at the <i>sponsor's</i> request*		<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
...			
89P(5)(a) 89P(7)(a) 89P(9)(a)	when the <i>FCA</i> is proposing or deciding to refuse a <i>person's</i> application for approval as		<del><i>RDC</i></del> <u><i>Executive procedures</i></u>

	a <i>primary information provider</i>		
...			
89P(5)(a) 89P(7)(a) 89P(9)(d)	when the <i>FCA</i> is proposing or deciding to refuse a <i>primary information provider's</i> application for the withdrawal or variation of a limitation or other restriction on the dissemination of <i>regulated information</i> to which a <i>primary information provider's</i> approval relates		<del><i>RDC</i></del> or <i>executive procedures</i>  <u><i>Executive procedures</i></u>  See <i>DEPP</i> 2.5.11DG
89P(5)(b) 89P(7)(b)	when the <i>FCA</i> is proposing or deciding to impose <i>limitations</i> or other restrictions on the dissemination of <i>regulated information</i> to which a <i>primary information provider's</i> approval relates.		<del><i>RDC</i></del> or <i>executive Executive procedures</i>  See <i>DEPP</i> 2.5.11AG
89P(5)(c) 89P(7)(c)	when the <i>FCA</i> is proposing or deciding to cancel a <i>person's</i> approval as a <i>primary information provider</i> otherwise than at the <i>primary information provider's</i> request		<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
...			
245(1)/(2)	when the <i>FCA</i> is proposing or deciding to refuse an application for an <i>authorisation</i> order declaring a <i>unit trust scheme</i> to be an <i>AUT</i> or an <i>AUT</i> to be a money market fund	<i>COLL 2</i>	<del><i>RDC</i></del> or <i>executive procedures</i>  <u><i>Executive procedures</i></u>  See <i>DEPP</i> 2.5.15G
...			

255(1)/(2)	when the <i>FCA</i> is proposing or deciding to make an order under section 254 revoking the <i>authorisation order</i> of an <i>AUT</i> *	None, but see Chapter 14 of the Regulatory Guide <i>EG</i> .	<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
...			
256(4)/(5)	when the <i>FCA</i> is proposing or deciding to refuse a request for the revocation of the <i>authorisation order</i> of an <i>AUT</i>		<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
260(1)/(2)	when the <i>FCA</i> , on an application to revoke or vary a direction under section 257, proposes or decides to refuse to revoke or vary the direction or proposes or decides to vary the direction otherwise than in accordance with the application		<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
261G(1)/(2) )	when the <i>FCA</i> is proposing or deciding to refuse an application for an <i>authorisation order</i> declaring a <i>scheme</i> to be an <i>ACS</i> or an <i>ACS</i> to be a money market fund	<i>COLL 2</i>	<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u> See <i>DEPP</i> 2.5.15G
...			
261V(1)/(2) )	when the <i>FCA</i> is proposing or deciding to make an order under section 261U revoking the <i>authorisation order</i> of an <i>ACS</i> *	None, but see Chapter 14 of the Regulatory Guide <i>EG</i> .	<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
...			

261W(4)/(5)	when the <i>FCA</i> is proposing or deciding to refuse a request for the revocation of the <i>authorisation order</i> of an <i>ACS</i>		<u><i>RDC Executive procedures</i></u>
261Z2(1)/(2)	when the <i>FCA</i> , on an application to revoke or vary a direction under section 261X, proposes or decides to refuse to revoke or vary the direction or proposes or decides to vary the direction otherwise than in accordance with the application		<u><i>RDC Executive procedures</i></u>
...			
280(1)/(2)	when the <i>FCA</i> is proposing or deciding to revoke a section 272 order in respect of a <i>recognised scheme</i> *		<u><i>RDC Executive procedures</i></u>
...			
331(1)/(3)	when the <i>FCA</i> is proposing or deciding to make an order disapplying the exemption from the <i>general prohibition</i> under section 327*		<u><i>RDC Executive procedures</i></u>
331(7)/(8)	when the <i>FCA</i> is proposing or deciding to refuse an application for the variation or revocation of an order made under section 329*		<u><i>RDC Executive procedures</i></u>
...			



Co-operative and Community Benefit Societies Act (Northern Ireland) 1969	Description	Handbook reference	Decision maker
...			
Sections 15 and 16	where the <i>FCA</i> is proposing to cancel or suspend the registration of a <i>registered society</i> relying on section 15 (1)(c)(ii)		<del><i>Executive procedures</i></del> where no representations are made in response to a notice of proposed cancellation, otherwise by the <i>RDC Executive procedures</i>
Section 65	where the <i>FCA</i> is proposing to petition for the winding up of a <i>registered society</i>		<del><i>RDC Executive procedures</i></del>
Section 75	where the <i>FCA</i> is proposing to prosecute a <i>registered society</i>		<i>Executive procedures</i> <del>or <i>RDC</i></del>

Credit Unions (Northern Ireland) Order 1985	Description	Handbook reference	Decision maker
...			
Articles 60(1) and 61(1)	where the <i>FCA</i> is proposing to cancel or suspend the registration of a <i>Northern Ireland credit union</i> relying		<del><i>Executive procedures</i></del> where no representations are made in response to a notice of proposed cancellation, otherwise by the <i>RDC</i>

	on section 60(1)(c)(ii)		
Article 63	where the <i>FCA</i> is proposing to petition for the winding up of a <i>Northern Ireland credit union</i>		<del>RDC</del> <u>Executive procedures</u>
Article 76	where the <i>FCA</i> is proposing to prosecute a <i>Northern Ireland credit union</i>		<u>Executive procedures</u> <del>or RDC</del>

Section of the Friendly Societies Act 1992	Description	Handbook reference	Decision maker
58A(1)(a)/(3)(a)	when the <i>FCA</i> is proposing or deciding to give a direction under section 54 or section 55 requiring a <i>friendly society</i> to take or refrain from taking steps where certain activities have become disproportionate to those of the <i>friendly society</i> group or, as the case may be, the society, or varying such a	See <i>DEPP</i> 2.5.18G(3)	<del>RDC</del> <u>Executive procedures</u>

	direction other than at the request of the society*		
58A(1)(b)/(3)(b)	when the <i>FCA</i> is proposing or deciding to give a direction under section 90 providing for a transfer of the engagements of a <i>friendly society</i> *		<del>RDC</del> <u>Executive procedures</u>
85(4A)	when the <i>FCA</i> , on an amalgamation between <i>friendly societies</i> each of which has a <i>Part 4A permission</i> , notifies the successor society of the terms of its <i>Part 4A permission</i>		<del>RDC or executive procedures</del> <u>Executive procedures</u> See <i>DEPP</i> 2.5.12G

<b>OEIC Regulation reference</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Regulation 16(1)/(2)	when the <i>FCA</i> is proposing or deciding to refuse an application for an <i>authorisation order</i> in respect of a proposed <i>ICVC</i> or an <i>ICVC</i> to be a money market fund	<i>COLL 2</i>	<del>RDC or executive procedures</del> <u>Executive procedures</u> See <i>DEPP</i> 2.5.15G

...			
Regulation 24(1)/(2)	when the <i>FCA</i> is proposing or deciding to revoke an <i>authorisation order</i> relating to an <i>ICVC</i> under regulation 23(1)*		<i><u>RDC Executive procedures</u></i>
Regulation 28(1)/(2)	when the <i>FCA</i> is proposing or deciding to refuse an application to revoke or vary a direction in accordance with a request under regulation 25(7) or to vary the direction in accordance with the application		<i><u>RDC Executive procedures</u></i>
...			

<b>Regulated Activities Order</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Article 95(2)/(3)	when the <i>FCA</i> is proposing or deciding not to include, or to remove, an <i>appointed representative</i> from the <i>Register</i> *	<i>SUP</i> 12.4.10G	<i><u>RDC Executive procedures</u></i>
Article 95(7)/(8)	when the <i>FCA</i> is proposing or deciding to refuse an application to revoke a determination not to include, or to remove, an <i>appointed</i>	<i>SUP</i> 12.4.10G	<i><u>RDC Executive procedures</u></i>

	<i>representative from the Register*</i>		
--	--	--	--

<b>Payment Services Regulations</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
...			
Regulations 9(8)(a), 15 and 19	when the <i>FCA</i> is deciding to refuse an application for authorisation as an <i>authorised payment institution</i> , or for registration of a <i>small payment institution</i> , or for registration as an <i>account information service provider</i> , or to impose a requirement, or to refuse an application to vary an authorisation or existing registration		<i>Executive procedures where no representations are made in response to a warning notice, otherwise by the RDC</i>
Regulations 10(2), 10(3)(a), 15 and 19	when the <i>FCA</i> is proposing or deciding to either cancel an <i>authorised payment institution's</i> authorisation, or to cancel a <i>small payment institution</i> or <i>account information service provider's</i> registration, otherwise than at that institution's own request*		<i><u>RDC Executive procedures</u></i>
...			

Regulation 34(9)(a)	when the <i>FCA</i> is deciding to refuse an application for registration as an <i>agent</i>		<del><i>Executive procedures where no representations are made in response to a warning notice, otherwise by the RDC</i></del>
Regulations 35(2) and 35(3)(a)	when the <i>FCA</i> is proposing or deciding to remove an <i>agent</i> from the <i>Financial Services Register</i> otherwise than at the request of a <i>payment institution*</i>		<del><i>RDC Executive procedures</i></del>
...			
<del>Schedule 5 paragraph 5(6)</del>	<del>when the <i>FCA</i> is proposing to refuse an application to vary the period, event or condition of a prohibition, or to remove a prohibition, or to vary or remove a restriction</del>		<del><i>Executive procedures</i></del>
Schedule 5 paragraph 5(7)	when the <i>FCA</i> is deciding to refuse an application to vary the period, event or condition of a prohibition, or to remove a prohibition, or to vary or remove a restriction		<del><i>Executive procedures, where no representations are made in response to a warning notice, otherwise by the RDC</i></del>
...			

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017	Description	Handbook reference	Decision maker
Regulations 25(6), 25(9) and 25 (10)(b)	when the <i>FCA</i> is exercising its power to give a direction		<i>RDC Executive procedures</i>
...			
Regulation 59(4)(b)	when the <i>FCA</i> is deciding to refuse an application for registration		<i>RDC or executive procedures</i> <i>Executive procedures</i> (Note 1)
Regulations 60(8) and 60(9)	when the <i>FCA</i> is proposing or deciding to suspend or cancel the registration of a person registered under the <i>Money Laundering Regulations</i>		<i>RDC Executive procedures</i>
...			
<p>Note:</p> <p><del>(1) The <i>RDC</i> will take the decision to give the notice under regulation 59(4)(b) if representations are made in response to the notice under regulation 59(3)(b) proposing to refuse the registration application.</del></p>			

...

Electronic Money Regulations	Description	Handbook reference	Decision maker
...			

Regulations 9(7)(a) and 15	when the <i>FCA</i> is deciding to refuse an application for authorisation as an <i>authorised electronic money institution</i> , or for registration as a <i>small electronic money institution</i> , or impose a requirement or refuse to vary an authorisation or registration		<i>Executive procedures where no representations are made in response to a warning notice, otherwise by the RDC</i>
Regulations 10(4), 10(5)(a) and 15	when the <i>FCA</i> is proposing or deciding to either cancel an <i>authorised electronic money institution's</i> authorisation, or to cancel a <i>small electronic money institution's</i> registration otherwise than at that institution's own request *		<u><i>RDC Executive procedures</i></u>
Regulations 11(6), 11(9), 11(10)(b) and 15	when the <i>FCA</i> is exercising its powers to vary an <i>electronic money institution's</i> authorisation or vary a <i>small electronic money institution's</i> registration on its own initiative		<del><i>RDC</i></del> <u><i>Executive procedures (Note 1)</i></u>
...			
Regulation 34(10)(a)	when the <i>FCA</i> is deciding to refuse an application for registration as an <i>agent</i>		<i>Executive procedures where no representations are made in response to a warning notice, otherwise by the RDC</i>



Regulations 35(2) and 35(3)(a)	when the <i>FCA</i> is proposing or deciding to remove an <i>agent</i> from the <i>Financial Services Register</i> otherwise than at the request of the <i>electronic money institution</i> *		<i>Executive procedures RDC</i>
...			
Regulation 74(7)	when the <i>FCA</i> is proposing to decide not to include a person on the register		<i>Executive procedures</i>
Regulation 74(8) (a)	when the <i>FCA</i> is deciding not to include a person on the register		<i>Executive procedures where no representations are made in response to a warning notice, otherwise by the RDC</i>
Regulation 74(8) (a)	when the <i>FCA</i> is deciding not to include a person on the register		<i>Executive procedures where no representations are made in response to a warning notice, otherwise by the RDC</i>
Schedule 2A paragraph 5(6)	when the <i>FCA</i> is proposing to refuse an application to vary the period, event or condition of a prohibition, or to remove a prohibition, or to vary or remove a restriction		<i>Executive procedures</i>
Schedule 2A paragraph 5(7)	when the <i>FCA</i> is deciding to refuse an application to vary the period, event or condition of a		<i>Executive procedures, where no representations are made in response to a warning notice,</i>

	prohibition, or to remove a prohibition, or to vary or remove a restriction		otherwise by the <i>RDC</i>
...			
<p>Notes:</p> <p>(1) <del>The <i>RDC</i> will take the decision to give the notice exercising the <i>FCA</i>'s own initiative power if the action involves:</del></p> <p><del>(a) removing a type of activity from an authorisation or registration; or</del></p> <p><del>(b) refusing an application to include a type of activity in an authorisation or registration; or</del></p> <p><del>(c) restricting a person from taking on new business, dealing with a particular category of customer or refusing an application to vary or cancel such a restriction; or</del></p> <p><del>(d) imposing or varying a capital requirement, or refusing an application to vary or cancel such a requirement. [deleted]</del></p> <p>(2) The <i>Electronic Money Regulations</i> do not require third party rights and access to <i>FCA</i> material when the <i>FCA</i> exercises this power. However, the <i>FCA</i> generally intends to allow for third party rights and access to material when exercising this power.</p>			

...

Alternative Investment Fund Managers Regulations 2013	Description	Handbook reference	Decision maker
...			
Regulation 13(2)(a), article 14b of the <i>RVECA</i> regulation and article 15b of the <i>SEF</i> regulation	where the <i>FCA</i> decides to refuse an application for entry on the register of <i>small registered UK AIFMs</i>		<i>Executive procedures</i> <del>where no representations are made in response to a warning notice</del> otherwise by the <i>RDC</i>

Regulation 18(1)	where the <i>FCA</i> proposes to revoke the registration of a <i>small registered UK AIFM</i> including, where applicable, its registration as a <i>SEF manager</i> or <i>RVECA manager</i>		<u><i>RDC Executive procedures</i></u>
Regulation 18(2)(a)	where the <i>FCA</i> decides to revoke the registration of a <i>small registered UK AIFM</i> including where applicable its registration as a <i>SEF manager</i> or <i>RVECA manager</i>		<u><i>RDC Executive procedures</i></u>
...			
Regulation 23B(2)(a)	where the <i>FCA</i> decides to refuse an application made by a <i>UK AIF</i> for authorisation as a <i>UK LTIF</i>		<i>Executive procedures where no representations are made in response to a warning notice otherwise by the RDC</i>
Regulation 23C(1)	where the <i>FCA</i> proposes to revoke the authorisation of a <i>UK LTIF</i>		<u><i>RDC Executive procedures</i></u>
Regulation 23C(2)(a)	where the <i>FCA</i> decides to revoke the authorisation of a <i>UK LTIF</i>		<u><i>RDC Executive procedures</i></u>
...			
Regulation 23E(2)(a)	where the <i>FCA</i> decides to refuse an application for registration as a <i>qualifying social entrepreneurship fund</i> or a <i>qualifying</i>		<i>Executive procedures where no representations are made in response to a warning notice otherwise by the RDC</i>

	<i>venture capital fund</i>		
Regulation 23F(1)	where the <i>FCA</i> proposes to revoke the registration of a <i>qualifying social entrepreneurship fund</i> or a <i>qualifying venture capital fund</i>		<del><i>RDC Executive procedures</i></del>
Regulation 23F(2)(a)	where the <i>FCA</i> decides to revoke the registration of a <i>qualifying social entrepreneurship fund</i> or a <i>qualifying venture capital fund</i>		<del><i>RDC Executive procedures</i></del>
...			
Regulation 23H(2)(a)	where the <i>FCA</i> decides to refuse an application for authorisation as a money market fund		<i>Executive procedures where no representations are made in response to a warning notice otherwise by the RDC</i>
Regulation 23I(1)	where the <i>FCA</i> proposes to revoke the authorisation of a money market fund		<del><i>RDC Executive procedures</i></del>
Regulation 23I(2)(a)	where the <i>FCA</i> decides to revoke the authorisation of a money market fund		<del><i>RDC Executive procedures</i></del>
...			
Regulation 56	where the <i>FCA</i> is proposing to revoke a <i>full-scope UK AIFM's approval to market</i>		<del><i>RDC Executive procedures</i></del>

	an <i>AIF</i> under regulation 54		
Regulation 56	where the <i>FCA</i> is deciding to revoke a <i>full-scope UK AIFM</i> 's approval to market an <i>AIF</i> under regulation 54		<i>RDC Executive procedures</i>
Regulation 62(2)	where the <i>FCA</i> proposes to revoke an <i>AIFM</i> 's entitlement to market an <i>AIF</i>		<i>RDC Executive procedures</i>
Regulation 62(3)	where the <i>FCA</i> decides to revoke the entitlement of an <i>AIFM</i> to market an <i>AIF</i>		<i>RDC Executive procedures</i>
...			

...

<b>The Co-operative and Community Benefit Societies Act 2014</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
...			
Sections 6 to 8	where the <i>FCA</i> is proposing to cancel or suspend the registration of a <i>registered society</i> relying on condition C, D or E in section 5		<i>Executive procedures where no representations are made in response to a notice of proposed cancellation, otherwise by the RDC</i>
Section 123	where the <i>FCA</i> is proposing to petition for the winding up of a <i>registered society</i>		<i>RDC Executive procedures</i>

Section 132	where the <i>FCA</i> is proposing to prosecute a <i>registered society</i>		<del><i>Executive procedures</i></del> or <i>RDC</i>
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...

<b>The Mortgage Credit Directive Order 2015</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
...			
Article 11(2)	when the <i>FCA</i> is deciding to refuse an application for entry on the register or variation of an existing entry on the register		<del><i>Executive procedures where no representations are made in response to a warning notice;</i></del> otherwise by the <i>RDC</i>
Articles 14(1), 14(2), 16(3) and 16(4)	when the <i>FCA</i> is proposing or deciding to revoke or suspend the registration of a registered <i>CBTL firm</i> other than at the firm's request or with the firm's consent*		<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
...			

...

<b>Data Reporting Services Regulations 2017</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
...			
Regulation 10(9)(b)	when the <i>FCA</i> is deciding to impose a restriction on the		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u>

	applicant for authorisation as a <i>data reporting services provider</i>		(see Note 1)
...			
Regulations 8(6)(b) and 10(9)(c)	when the <i>FCA</i> is deciding to refuse an application for verification or authorisation as a <i>data reporting services provider</i>		<del><i>RDC</i></del> or <i>executive procedures</i> <u><i>Executive procedures</i></u> (see Note 2)
Regulations 8(9), 11(4)(a) and 11(5)(b)(i)	when the <i>FCA</i> is proposing or deciding to cancel a verification or the authorisation of a <i>data reporting services provider</i> otherwise than at its request		<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
...			
Regulations 8(9) and 11(5)(b)(ii)	when the <i>FCA</i> is deciding to refuse a request to cancel a verification authorisation of a <i>data reporting services provider</i>		<del><i>RDC</i></del> or <i>executive procedures</i> <u><i>Executive procedures</i></u> (see Note 2)
...			
Regulations 8(10) and 12(4)	when the <i>FCA</i> is deciding to refuse a request to vary a verification or the authorisation of a <i>data reporting services provider</i>		<del><i>RDC</i></del> or <i>executive procedures</i> <u><i>Executive procedures</i></u> (see Note 1)
...			
<b>Notes:</b>			

1) If representations are made in response to a *warning notice*, then the *RDC* will take the decision to give a *decision notice* if the action proposed involves:

(a) restricting a *person* from providing a *data reporting service*; or

(b) refusing an application to include a type of activity in a verification or authorisation.

In all other cases, the decision to give a *decision notice* will be taken by *FCA* staff under *executive procedures*.

(2) If representations are made in response to a *warning notice* then the *RDC* will take the decision to give a *decision notice*. Otherwise the decision to give a *decision notice* will be taken by *FCA* staff under *executive procedures*.

...

UK Securitisation Regulations	Description	Handbook reference	Decision maker
...			
Regulation 19(1)(d) and 20(1)(d)	when the <i>FCA</i> is proposing or deciding to refuse an application under regulation 13		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u> (see Note)
Regulation 19(1)(e) and 20(1)(e)	when the <i>FCA</i> is proposing or deciding to cancel the authorisation of a third-party verification service otherwise than at its request under regulation 16		<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
Regulation 19(1)(f) and 20(1)(f)	when the <i>FCA</i> is proposing or deciding to refuse a request to cancel the authorisation of a third-party verification service under regulation 17		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u> (see Note)
...			



[Note:  
 The decision to give a *warning notice* will be taken by *FCA* staff under *executive procedures*. If representations are made in response to a *warning notice* then the *RDC* will take the decision to give a *decision notice*.  
 Otherwise the decision to give a *decision notice* will be taken by *FCA* staff under *executive procedures*.]

Proxy Advisors (Shareholders' Rights) Regulations	Description	Handbook reference	Decision maker
...			
Regulation 12	when the <i>FCA</i> is proposing or deciding to impose a financial penalty under regulation 12		<i>RDC</i> or <i>executive procedures</i>
...			

OPBAS Regulations	Description	Handbook reference	Decision maker
...			
Regulation 17	when the <i>FCA</i> is proposing to make a recommendation to the Treasury that a <i>self-regulatory organisation</i> is removed from Schedule 1 to the <i>Money Laundering Regulations</i>		<i>RDC</i> <u><i>Executive procedures</i></u>
Regulation 17	when the <i>FCA</i> is deciding to recommend to the Treasury that a <i>self-regulatory organisation</i> is removed from Schedule 1 to the <i>Money Laundering Regulations</i>		<i>Executive procedures</i> where no representations are made in response to a <i>warning notice</i> , otherwise by the <i>RDC</i>

...

2 Annex    Supervisory notices  
2G

Section of the Act	Description	Handbook reference	Decision maker
55XA(1)(a) and 55XA(1)(b)	when the <i>FCA</i> is deciding to grant an application for a <i>Part 4A permission</i> to carry on the <i>regulated activity</i> specified in article 63S of the <i>Regulated Activities Order</i> with a limitation or a requirement which was not applied for, or with a narrower or wider description of <i>regulated activity</i> than that applied for		<del><i>RDC</i></del> or <i>executive procedures</i> <u><i>Executive procedures</i></u> See <i>DEPP</i> 2.5.18G(5)
55XA(1)(c) and 55XA(1)(d)	when the <i>FCA</i> is deciding to grant an application to vary a <i>firm's Part 4A permission</i> to carry on the <i>regulated activity</i> specified in article 63S of the <i>Regulated Activities Order</i> but, other than as part of the application, to restrict the <i>Part 4A permission</i> either by imposing a limitation or requirement which was not applied for or by specifying a narrower or wider description of <i>regulated activity</i> than that applied for		<del><i>RDC</i></del> or <i>executive procedures</i> <u><i>Executive procedures</i></u> See <i>DEPP</i> 2.5.18G(5)
55XA(1)(e)	when the <i>FCA</i> is deciding to refuse an application for a <i>Part</i>		<del><i>RDC</i></del> or <i>executive procedures</i> <u><i>Executive procedures</i></u>

	<i>4A permission to carry on the regulated activity specified in article 63S of the Regulated Activities Order</i>		See DEPP 2.5.18G(5)
55XA(1)(f)	when the <i>FCA</i> is deciding to refuse an application to vary a <i>firm's Part 4A permission</i> to carry on the regulated activity specified in article 63S of the <i>Regulated Activities Order</i>		<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u> See DEPP 2.5.18G(5)
55Y(4) 55Y(7) 55Y(8)(b)	when the <i>FCA</i> is exercising its <i>own-initiative variation power</i> to vary a <i>firm's Part 4A permission</i>	SUP 7	<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u> See DEPP 2.5.7G
63ZC(4) 63ZC(8) 63ZC(9)(b)	when the <i>FCA</i> is exercising its power to vary, on its own initiative, an approval granted to an <i>SMF manager</i>		<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u> See DEPP 2.5.8AG and DEPP 2.5.8BG
71H(2), (3), (4), (9) or (11)(a)	where the <i>FCA</i> is proposing or deciding to impose or vary a requirement in relation to a director or senior executive under section 71B or 71C(2) or (8) or to appoint or vary the terms of appointment of a temporary manager under section 71C(1)		<del>RDC</del> <u>Executive procedures</u>
55Y(4) 55Y(7) 55Y(8)(b)	when the <i>FCA</i> is exercising its <i>own-initiative requirement power</i>		<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u> See DEPP 2.5.7G

78(2)/(5)	when the <i>FCA</i> is proposing to discontinue or discontinues the <i>listing</i> of a security	<i>LR 5</i>	<del><i>RDC</i></del> or <i>executive procedures</i> <i>Executive procedures</i> See <i>DEPP 2.5.9G(4)</i> and <i>DEPP 2.5.10G</i>
...			
259(3)/ (8)/ (9)(b)	when the <i>FCA</i> is exercising its power to give or, on its own initiative, to vary a direction to the <i>manager</i> and <i>trustee</i> of an <i>AUT</i>	<i>COLL</i>	<del><i>RDC</i></del> <i>Executive procedures</i>
261Z1	when the <i>FCA</i> gives a direction under section 261X or section 261Z	<i>COLL</i>	<del><i>RDC</i></del> <i>Executive procedures</i>
268(3)/ (7)(a) or (9)(a) (as a result of (8)(b)/(13))	when the <i>FCA</i> is proposing or deciding to give or, on its own initiative, to vary a direction to the <i>operator</i> of a <i>recognised scheme</i>	<i>COLL</i>	<del><i>RDC</i></del> <i>Executive procedures</i>
282 (3)/ (6)/ (7)(b)	when the <i>FCA</i> is exercising its power to give a direction to an <i>operator, trustee</i> or <i>depository</i> of a <i>recognised scheme</i>	<i>COLL</i>	<del><i>RDC</i></del> <i>Executive procedures</i>
...			
321(2)/(5)	when the <i>FCA</i> is exercising its power to impose a requirement on a former underwriting member of <i>Lloyd's</i>		<del><i>RDC</i></del> <i>Executive procedures</i>

<b>OEIC Regulations reference</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
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Regulation 27	when the <i>FCA</i> is exercising its power to give or, on its own initiative, to vary a direction to an <i>ICVC</i> and its <i>depository</i>	<i>COLL</i>	<del><i>RDC</i></del> <u><i>Executive procedures</i></u>
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<b>Payment Services Regulations</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
12(6), 12(9), 12(10)(b), 15 and 19	when the <i>FCA</i> is exercising its powers to vary a <del>person's</del> <u>person's</u> authorisation on its own initiative		<del><i>RDC</i></del> or <i>Executive procedures</i> See also <i>DEPP</i> 3.4 (Note 1)
Schedule 5, paragraphs 1(1), 1(2), 2(2)(a), 2(2)(b), 2(3), 4(6) and 4(7)	when the <i>FCA</i> is exercising its power to impose a prohibition or restriction, or to vary a restriction		<del><i>RDC</i></del> or <i>executive procedures</i> <u><i>Executive procedures</i></u> (Note 2) See also <i>DEPP</i> 3.4

## Notes:

(1) ~~The *RDC* will~~ *FCA* staff under *executive procedures* will take ~~the decision~~ all decisions to give a notice exercising the *FCA*'s own initiative power to vary a *person's* authorisation, including if the action involves:

- (a) removing a type of activity from an authorisation or registration; or
- (b) refusing an application to include a type of activity in an authorisation or registration; or
- (c) restricting a person from taking on new business, dealing with a particular category of customer or refusing an application to vary or cancel such a restriction; or
- d) imposing or varying a capital requirement, or refusing an application to vary or cancel such a requirement.

~~For all other types of action the decision to give a notice will be taken by *FCA* staff under *executive procedures*.~~

(2) ~~The *RDC* will take the decision to give a notice imposing a prohibition or imposing or varying a restriction under Schedule 4A paragraphs 1(1), 1(2), 2(2)(a), 2(2)(b), 2(3), 4(6) and 4(7). However, *FCA* staff under *executive procedures* will be the decision maker whenever a *firm* agrees~~

not to contest the imposition of a prohibition or imposition or variation of a restriction.

<b>Alternative Investment Fund Managers Regulations 2013</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Regulation 22(4)	where the <i>FCA</i> is exercising its power on its own initiative to give or vary a direction under regulation 22(1) to a <i>small registered UK AIFM</i> , a <i>SEF manager</i> or <i>RVECA manager</i>		<i>RDC</i> or <i>executive procedures</i>  <u><i>Executive procedures</i></u>  See <i>DEPP 2.5.7G</i> to <i>DEPP 2.5.8G</i>
...			

<b><i>Electronic Money Regulations</i></b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Schedule 2A, paragraphs 1(1), 1(2), 2(2)(a), 2(2)(b), 2(3), 4(6) and 4(7)	when exercising its power to impose a prohibition or restriction, or to vary a restriction		<i>RDC</i> or <i>executive procedures</i> (Note 1)  See also <i>DEPP 3.4</i>

Notes:

(1) The *RDC* will take the decision to give a notice imposing a prohibition or imposing or varying a restriction under Schedule 2A paragraphs 1(1), 1(2), 2(2)(a), 2(2)(b), 2(3), 4(6) and 4(7). However, *FCA* staff under *executive procedures* will be the decision maker whenever a *firm* agrees not to contest the imposition of a prohibition or imposition or variation of a restriction.

...

The Immigration Act 2014 (Bank Account) Regulations 2014	Description	Handbook reference	Decision maker
Regulation 24 and 25	where the <i>FCA</i> is proposing or deciding to publish a statement (under regulations 15 or 16) or impose a financial penalty (under regulation 17) or impose a restriction on permission (under regulation 18) or suspend or restrict an approval (under regulation 19)*		<i>RDC</i> or <u><i>executive procedures</i></u>

The Mortgage Credit Directive Order 2015	Description	Handbook reference	Decision maker
Article 19(6)	when the <i>FCA</i> is exercising its <i>own-initiative power</i> to impose a direction		<del><i>RDC</i></del> or <u><i>executive procedures</i></u> <u><i>Executive procedures</i></u> See <i>DEPP</i> 2.5.7G and <i>DEPP</i> 2.5.7AG

The Payment Accounts Regulations 2015	Description	Handbook reference	Decision maker
Regulation 30	when the <i>FCA</i> is exercising the power to impose a direction		<del><i>RDC</i></del> or <u><i>executive procedures</i></u> (Note)



			<u>Executive procedures</u> See DEPP 2.5.17G
<p>Note: <del>The RDC will take the decision to give a notice imposing a direction. However, FCA staff under executive procedures will be the decision maker whenever a firm agrees not to contest the direction.</del></p>			

<b>Markets in Financial Instruments Regulations 2017</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Regulation 12(2)	when the FCA is exercising its power of intervention in respect of a <i>third country</i> firm		<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u> (see DEPP 2.5.7G and DEPP 2.5.7AG)
...			
Regulations 40(3) and 40(6)	when the FCA is proposing or deciding to impose a requirement, or deciding to not rescind the imposition of a requirement that has already taken effect under regulation 40		<del>RDC</del> <u>Executive procedures</u>

<b>Data Reporting Services Regulations 2017</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Regulation 22(6)	when the FCA is imposing a limitation or other restriction under regulation 22		<del>RDC</del> or <del>executive procedures</del> <u>Executive procedures</u>

			(see Note)
<p><b>Note:</b> The <i>RDC</i> will take the decision to give a notice imposing a restriction or limitation if it involves restricting a <i>person</i> from providing a <i>data reporting service</i>. Otherwise the decision to give a notice will be taken by <i>FCA</i> staff under <i>executive procedures</i>.</p>			

...

CRA Regulation	Description	Handbook reference	Decision maker
Article 18(2) and 18(10)	when the <i>FCA</i> is exercising its power under article 16 to refuse an application for registration of a <i>credit rating agency</i>		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(6))
Article 18(2) and 18(10)	when the <i>FCA</i> is exercising its power under article 17 to refuse an application for registration of a group of <i>credit rating agencies</i>		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(6))
Article 18(2) and 18(10)	when the <i>FCA</i> is exercising its power under article 20(1) and 20(2) to withdraw the registration of a <i>credit rating agency</i> on its own initiative		<del><i>RDC</i></del> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(6))
Article 18(2) and 18(10)	when the <i>FCA</i> is exercising its power under article 20(3) to refuse an application made by a <i>credit rating agency</i> to withdraw its registration		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(6))
Article 18(2) and 18(10)	when the <i>FCA</i> is exercising its power under article 24(1) to impose a direction to		<del><i>RDC</i></del> or <del><i>executive procedures</i></del> <u><i>Executive procedures</i></u>

	temporarily prohibit a <i>credit rating agency</i> from issuing credit ratings or to suspend the use of credit ratings issued by a <i>credit rating agency</i>		(see <i>DEPP</i> 2.5.18G(6))
--	--	--	------------------------------

<b>Trade Repositories (EU Exit) Regulations</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Article 71a(6) and 71a(10)	when the <i>FCA</i> is exercising its power under article 58 to refuse an application for registration of a <i>trade repository</i>		<i>RDC</i> or <i>executive procedures</i> <i>Executive procedures</i> (see <i>DEPP</i> 2.5.18G(7))
Article 71a(6) and 71a(10)	when the <i>FCA</i> is exercising its power under article 71(1) or 71(2) to withdraw the registration of a <i>trade repository</i> on its own initiative		<i>RDC</i> <i>Executive procedures</i> (see <i>DEPP</i> 2.5.18G(7))
Article 71a(6) and 71a(10)	when the <i>FCA</i> is exercising its power under article 71(3) to refuse an application made by a <i>trade repository</i> to withdraw its registration		<i>RDC</i> or <i>executive procedures</i> <i>Executive procedures</i> (see <i>DEPP</i> 2.5.18G(7))

<b>Securitisation (Amendment) (EU Exit) Regulations</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Article 13(6)(a) and 13(11)(a) of the <i>Securitisation Regulation</i> as	when the <i>FCA</i> is exercising its power to refuse an application for registration of a		<i>RDC</i> or <i>executive procedures</i> <i>Executive procedures</i>

amended by regulation 15	<i>securitisation repository</i> under article 12 of the <i>Securitisation Regulation</i> as amended by regulation 15		(see <i>DEPP</i> 2.5.18G(8))
Article 13(6)(b) and 13(11)(b) of the <i>Securitisation Regulation</i> as amended by regulation 15	when the <i>FCA</i> is exercising its power to withdraw the registration of a <i>securitisation repository</i> on its own initiative under article 13a(1) or 13a(2) of the <i>Securitisation Regulation</i> as amended by regulation 15		<del><i>RDC</i></del> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(8))
Article 13(6)(c) and 13(11)(c) of the <i>Securitisation Regulation</i> as amended by regulation 15	when the <i>FCA</i> is exercising its power to refuse an application made by a <i>securitisation repository</i> to withdraw its registration under article 13a(3) of the <i>Securitisation Regulation</i> as amended by regulation 15		<del><i>RDC</i></del> or <u><i>executive procedures</i></u> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(8))

<b>Securities Financing Transactions Regulation</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Article 10a(6)(a) and 10a(11)(a)	when the <i>FCA</i> is exercising its power under article 7 of the <i>Securities Financing Transactions Regulation</i> to refuse an application for		<del><i>RDC</i></del> or <u><i>executive procedures</i></u> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(9))

	registration of a <i>trade repository</i>		
Article 10a(6)(b) and 10a(11)(b)	when the <i>FCA</i> is exercising its power to withdraw the registration of a <i>trade repository</i> on its own initiative under article 10(1) or 10(2)		<del><i>RDC</i></del> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(9))
Article 10a(6)(c) and 10a(11)(c)	when the <i>FCA</i> is exercising its power to refuse an application made by a <i>trade repository</i> to withdraw its registration under article 10(3)		<del><i>RDC</i></del> <del><i>or executive procedures</i></del> <u><i>Executive procedures</i></u> (see <i>DEPP</i> 2.5.18G(9))

<b>The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017</b>	<b>Description</b>	<b>Handbook reference</b>	<b>Decision maker</b>
Regulation 74C(5)	When the <i>FCA</i> is exercising its own initiative powers to impose, vary or rescind a direction.		<del><i>RDC</i></del> <del><i>or executive procedures</i></del> <u><i>Executive procedures</i></u>

### 3 The nature and procedure of the RDC

...

#### 3.2 The operation of the RDC

...

Procedure: warning notices ~~and first supervisory notices~~

- 3.2.12 G If *FCA* staff consider that action is appropriate in a matter for which the *RDC* is the decision maker, they will make a recommendation to the *RDC* that a *warning notice* ~~or a supervisory notice~~ should be given.

...

- 3.2.14 G If the *RDC* decides that the *FCA* should give a *warning notice* ~~or a first supervisory notice~~:

- (1) The *RDC* will settle the wording of the *warning notice* ~~or first supervisory notice~~, and will ensure that the notice complies with the relevant provisions of the *Act*;

...

...

Procedure: representations

- 3.2.15 G (1) A *warning notice* ~~or a first supervisory notice~~ will (as required by the *Act*) specify the time allowed for making representations. This will not be less than 14 ~~days~~ days.

- (2) The *FCA* will also, when giving a *warning notice* ~~or a first supervisory notice~~, specify a time within which the recipient is required to indicate whether he wishes to make oral representations.

- 3.2.16 G (1) The recipient of a *warning notice* ~~or a first supervisory notice~~ may request an extension of the time allowed for making representations. Such a request must normally be made within seven *days* of the notice being given.

- (2) If a request is made, the Chairman or a Deputy Chairman of the *RDC* will decide whether to allow an extension, and, if so, how much additional time is to be allowed for making representations. In reaching their decision they will take into account all relevant factors including the legal and factual complexity of the case, as well as whether there are any factors outside the control of the *firm* or *individual* that would materially impact on their ability to respond within the period set out in the *warning notice* ~~or first~~

~~supervisory notice~~. They may also take account of any relevant comments from the *FCA* staff responsible for the matter.

...

- 3.2.17 G (1) If the recipient of a *warning notice* ~~or a first supervisory notice~~ indicates that he wishes to make oral representations, the *RDC* staff, in conjunction with the Chairman or a Deputy Chairman of the *RDC*, will fix a date or dates for a meeting at which the relevant *RDC* members will receive those representations.

...

- 3.2.18 G The chairman of the relevant meeting will ensure that the meeting is conducted so as to enable:
- (1) the recipient of the *warning notice* ~~or first supervisory notice~~ to make representations;
- ...
- (4) the recipient of the notice to respond to points made by *FCA* staff or the *RDC*;

but the chairman may ask the recipient of the notice or *FCA* staff to limit their representations or response in length or to particular issues arising from the *warning notice* ~~or first supervisory notice~~. If the *warning notice* was given on the basis of a *focused resolution agreement*, the recipient will be required to limit their representations to the issues that remain in dispute.

- 3.2.19 G The recipient of the *warning notice* ~~or supervisory notice~~ may wish to be legally represented at the meeting, but this is not a requirement.

...

- 3.2.21 G The *RDC* will not, after the *FCA* has given a *warning notice* ~~or a first supervisory notice~~, meet with or discuss the matter whilst it is still ongoing with the *FCA* staff responsible for the case without other relevant parties being present or otherwise having the opportunity to respond.

Procedure: decision notices ~~and second supervisory notices~~

- 3.2.22 G If no representations are made in response to the *warning notice* ~~or first supervisory notice~~, the *FCA* will regard as undisputed the allegations or matters set out in the notice and the default procedure will apply: see *DEPP* 2.3.2G to *DEPP* 2.3.4G.

...

- 3.2.23 G In any case in which representations are made, in accordance with *DEPP* 2.3.1G, the *RDC* will consider whether it is right in all the circumstances to give the *decision notice* ~~or a second supervisory notice~~ (as appropriate).
- 3.2.24 G If the *RDC* decides that the *FCA* should give a *decision notice* ~~or a second supervisory notice~~:
- (1) the *RDC* will settle the wording of the notice which will include a brief summary of the key representations made and how they have been dealt with, and will ensure that the notice complies with the relevant provisions of the *Act*;
  - (2) the *RDC* will make any relevant *statutory notice associated decisions*, including whether the *FCA* is required to give a copy of the notice to a third party; and
  - (3) the *RDC* staff will make appropriate arrangements for the notice to be given.
- 3.2.25 G If the *RDC* decides that the *FCA* should not give a *decision notice* ~~or a second supervisory notice~~ the *RDC* staff will notify the relevant parties (including the relevant *FCA* staff) in writing of that decision.

...

Tribunal proceedings

- 3.2.27 G A decision by the *RDC* to give a *decision notice* ~~or supervisory notice~~ may lead to a reference to the *Tribunal* under the *Act*. The conduct of proceedings before the *Tribunal* is not however a matter for the *RDC*.

DEPP 3.4 (Urgent supervisory notice cases) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

### **3.4 Urgent supervisory notice cases [deleted]**

Amend the following as shown.

## **4 Decisions by FCA staff under executive procedures**

### **4.1 Executive decision maker**

Who takes the decision

...

- 4.1.2B G A decision made in accordance with section 395(3) of the *Act* by an individual *FCA* staff member who has been directly involved in establishing the evidence on which the decision is based will be taken by a



member of FCA staff of at least Director level (which may include an acting Director).

#### Decisions by senior staff committee

- 4.1.3 G An *FCA* senior executive committee will from time to time determine that particular categories of *statutory notice decision* to be taken under *executive procedures* and decisions referred to in *DEPP 2.5.6AG* ~~will~~ may be taken by a *senior staff committee*.

...

- 4.1.5 G A *senior staff committee* may operate through standing or specific sub-committees to consider particular decisions or classes of decision, for which accountability will lie through the committee. Each meeting of a *senior staff committee*, or sub-committee, will include:

- (1) an individual with authority to act as its chairman; and
- (2) at least ~~two~~ one other ~~members~~ member.

...

#### Decisions by individual FCA staff members

- 4.1.7 G *Statutory notice decisions* to be taken under *executive procedures* and decisions referred to in *DEPP 2.5.6AG*, ~~and not falling within the responsibility of which are not made by a senior staff committee~~, will be taken by an individual *FCA* staff member. Subject to *DEPP 2.5.7B*, The the decision will be:

- (1) made by an executive director of the *FCA* Board or his delegate (who will be of at least the level of associate);
- (2) on the recommendation of an *FCA* staff member of at least the level of associate; and
- (3) with the benefit of legal advice from an *FCA* staff member of at least the level of associate;

except for decisions made in relation to consumer redress schemes pursuant to provisions of the Consumer Redress Schemes sourcebook (*CONRED*), where (1) will apply, but not (2) or (3).

...

#### Procedure

- 4.1.13 G The procedure for taking decisions under *executive procedures* will generally be less formal and structured than that for decisions by the *RDC*. Broadly, however, *FCA* staff responsible for taking *statutory notice*

decisions under *executive procedures* will follow a procedure similar to that described at *DEPP 3.2.7G* to *DEPP 3.2.27G* for the *RDC* except that:

- (-1) oral representations will not be permitted unless there are exceptional circumstances (*DEPP 2.3.1A*);
- (1) in a case where the decision will be taken by a *senior staff committee*:
  - (a) the chairman or deputy chairman of the *senior staff committee* will perform the role of the Chairman of the *RDC*; ~~and~~
  - (b) ~~the secretariat to the *senior staff committee* will perform the role of the *RDC* staff;~~

...

DEPP 4.2 (Urgent Statutory notice cases) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

**4.2 Urgent Statutory notice cases [deleted]**

Amend the following as shown.

**TP1 Transitional provisions applying to the Decision Procedure and Penalties Manual**

1. Table DEPP TP 1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision dates in force:	(6) Handbook provision coming into force
1	<i>DEPP</i>	G	Expired		
2	<i>DEPP 6.7</i> (Discount for early settlement)	G	Expired		
3	<i>DEPP</i>	G	Expired		

4	<i>DEPP</i>	G	Expired		
<u>5</u>	<u><i>DEPP</i></u>	<u>G</u>	<u>A firm or individual who has been given a statutory notice before the commencement date in cases where the RDC, but for these changes, would be responsible for giving the decision notice will continue to have that matter dealt with by the RDC under the RDC procedures until the matter is concluded.</u>	<u>Commencement date</u>	<u>Commencement date</u>

## Annex B

### Amendments to the Enforcement Guide (EG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 7 Financial penalties and other disciplinary sanctions

...

#### 7.9 Suspensions of voting rights

...

7.9.2 Decisions about whether to apply to the Court for a voting rights suspension order under the *Act* will be made by the ~~RDC Chairman~~ or, if the Chairman is not available, by an ~~RDC Deputy Chairman~~ executive director of Enforcement, or in his or her absence, the acting executive director of Enforcement.

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

...

#### 8.3 Use of the own-initiative powers ~~in urgent cases~~

...

8.3.2 The *FCA* will consider exercising its *own-initiative power* ~~as a matter of urgency~~ where:

- (1) the information available to it indicates serious concerns about the *firm* or its business that need to be addressed immediately; and
- (2) circumstances indicate that it is appropriate to use statutory powers immediately to require and/or prohibit certain actions by the *firm* in order to ensure the *firm* addresses these concerns.

...

8.3.4 The *FCA* will consider the full circumstances of each case when it decides whether ~~an urgent~~ a variation of *Part 4A permission* or an imposition of a requirement is appropriate. The following is a non-exhaustive list of factors the *FCA* may consider.

- (1) The extent of any loss, or risk of loss, or other adverse effect on *consumers*. The more serious the loss or potential loss or other adverse effect, the more likely it is that the *FCA's* ~~urgent~~ exercise of *own-initiative powers* will be appropriate, to protect the consumers' interests.

- (2) The extent to which *customer* assets appear to be at risk. ~~Urgent exercise~~ Exercise of the *FCA's own-initiative power* may be appropriate where the information available to the *FCA* suggests that *customer* assets held by, or to the order of, the *firm* may be at risk.
- (3) The nature and extent of any false or inaccurate information provided by the *firm*. Whether false or inaccurate information warrants the *FCA's* ~~urgent~~ exercise of its *own-initiative powers* will depend on matters such as:
- (a) the impact of the information on the *FCA's* view of the *firm's* compliance with the regulatory *requirements* to which it is subject, the *firm's* suitability to conduct *regulated activities*, or the likelihood that the *firm's* business may be being used in connection with *financial crime*;
  - (b) whether the information appears to have been provided in an attempt knowingly to mislead the *FCA*, rather than through inadvertence;
  - (c) whether the matters to which false or inaccurate information relates indicate there is a risk to *customer* assets or to the other interests of the *firm's* actual or potential *customers*.

...

- (6) The risk that the *firm's* business may be used or has been used to facilitate *financial crime*, including *money laundering*. The information available to the *FCA*, including information supplied by other law enforcement agencies, may suggest the *firm* is being used for, or is itself involved in, *financial crime*. Where this appears to be the case, and the *firm* appears to be failing to meet the *threshold conditions* or has put its *customers'* interests at risk, the *FCA's* ~~urgent~~ use of its *own-initiative powers* may well be appropriate.

...

...

## 10 Injunctions

### 10.1 Introduction

10.1.1 ~~An exceptionally urgent case in these circumstances is one where the FCA staff believe that a decision to begin proceedings~~

- (1) ~~should be taken before it is possible to follow the procedure described in paragraph 10.1.2; and~~
- (2) ~~it is necessary to protect the interests of consumers or potential consumers. [deleted]~~

...

- 10.1.3 Decisions about whether to apply to the civil courts for injunctions under the *Act* will be made by ~~the RDC Chairman or, in an urgent case and if the Chairman is not available, by an RDC Deputy Chairman. In an exceptionally urgent case the matter will be decided by the~~ executive director of Enforcement or, in his or her absence, ~~another member of the FCA's executive of at least director of division level~~ the acting executive director of Enforcement.

...

## 11 Restitution and redress

### 11.1 Restitution orders under sections 382, 383 and 384 of the Act: the FCA's general approach

- 11.1.1 Decisions about whether to apply to the civil courts for restitution orders under the *Act* will be made by ~~the RDC Chairman or, in an urgent case and if the Chairman is not available, by an RDC Deputy Chairman. In an exceptionally urgent case the matter will be decided by the~~ executive director of Enforcement or, in his or her absence, ~~another member of the FCA's executive of at least director of division level~~ the acting executive director of Enforcement.

- 11.1.2 An exceptionally urgent case in these circumstances is one where the *FCA* staff believe that a decision to begin proceedings

- (1) ~~should be taken before it is possible to follow the procedure described in paragraph 11.1.1; and~~
- (2) it is necessary to protect the interests of consumers or potential consumers. ~~[deleted]~~

...

## 12 Prosecution of Criminal Offences

### 12.1 The FCA's general approach

...

Commencing criminal proceedings

...

- 12.1.5 Subject to 12.4C, a decision to commence criminal proceedings will be made by ~~the RDC Chairman or, in an urgent case and if the Chairman is not available, by an RDC Deputy Chairman. In an exceptionally urgent case the matter will be decided by the~~ executive director of Enforcement or, in his or her absence, ~~another member of the FCA's executive of at least director of division level~~ the acting executive director of Enforcement.

12.1.6 ~~An exceptionally urgent case in these circumstances is one where the FCA staff believe that a decision to begin proceedings~~

- ~~(1) should be taken before it is possible to follow the procedure described in paragraph 12.1.5; and~~
- ~~(2) it is necessary to protect the interests of consumers or potential consumers. [deleted]~~

12.1.7 Decisions about whether to initiate criminal proceedings under the Building Societies Act 1986, the Friendly Societies Acts 1974 and 1992, the Credit Unions Act 1979 and the Co-operative and Community Benefit Societies Act 2014 ~~may either will~~ be taken by the procedure described in *EG* 12.1.5 or under *executive procedures*. ~~The less serious the offence or its impact and the less complex the issues raised, the more likely that the FCA will take the decision to prosecute under *executive procedures*~~ executive director of Enforcement or, in his or her absence, the acting executive director of Enforcement.

...

## 13 **Insolvency**

...

### 13.2 **The FCA's general approach to use of its powers and rights in insolvency proceedings**

...

13.2.3 Decisions about whether to apply to the civil courts for insolvency orders under the *Act* will be made by ~~the RDC Chairman or, in an urgent case and if the Chairman is not available, by an RDC Deputy Chairman. In an exceptionally urgent case the matter will be decided by the~~ executive director of Enforcement or, in his or her absence, ~~another member of the FCA's executive of at least director of division level~~ the acting executive director of Enforcement.

13.2.4 ~~An exceptionally urgent case in these circumstances is one where the FCA staff believe that a decision to begin proceedings~~

- ~~(1) should be taken before it is possible to follow the procedure described in paragraph 13.2.3; and~~
- ~~(2) it is necessary to protect the interests of consumers or potential consumers. [deleted]~~

## 14 **Collective Investment Schemes**

...

#### 14.4 Exercise of the powers in respect of recognised schemes: sections 279 and 281 of the Act – powers to revoke recognition of schemes recognised under section 272: the FCA’s policy

...

14.4.3 Decisions about whether to apply to the civil courts for *collective investment scheme* related orders under the *Act* will be made by ~~the RDC Chairman or, in an urgent case and if the Chairman is not available, by an RDC Deputy Chairman. In an exceptionally urgent case the matter will be decided by the~~ executive director of Enforcement or, in his or her absence, another member of the FCA’s executive of at least director of division level the acting executive director of Enforcement.

14.4.4 An exceptionally urgent case in these circumstances is one where the *FCA* staff believe that a decision to begin proceedings

(1) ~~should be taken before it is possible to follow the procedure described in paragraph 14.4.3; and~~

(2) ~~it is necessary to protect the interests of consumers or potential consumers. [deleted]~~

...

#### 19 Non-FSMA powers

...

#### 19.6 Regulated Activities Order 2001 (RAO)

19.6.1 The RAO sets out those activities which are regulated for the purposes of the *Act*. Part V of the RAO also requires the *FCA* to maintain a register of all those people who are not authorised by the *FCA* but who carry on insurance distribution activities. Under article 95 RAO, the *FCA* has the power to remove from the register an appointed representative who carries on insurance distribution activities if it considers that he is not fit and proper. The *FCA* will give the person a *warning notice* informing him that it proposes to remove his registration and a *decision notice* if the decision to remove his registration is taken. The decisions to give a *warning notice* or a *decision notice* will be taken ~~by the RDC following the procedures set out in DEPP 3.2 or, where appropriate, DEPP 3.3~~ under executive procedures. A person who receives a decision notice under article 95 RAO may refer the matter to the *Tribunal*.

#### 19.7 The Open-Ended Investment Companies Regulations 2001

...

19.7.3 The *FCA* will give a company a *warning notice* if it proposes to revoke the company’s authorisation and a *decision notice* if the decision to revoke the company’s authorisation is subsequently taken. The decisions to give a *warning*



*notice* or a *decision notice* will be taken by the *RDC* following the procedures set out in *DEPP 3.2* or, where appropriate, *DEPP 3.3* under *executive procedures*. A person who receives a decision notice under the *OEIC Regulations* may refer the matter to the *Tribunal*.

...

## **19.22 Decision making under the Payment Services Regulations**

19.22.1 The *RDC* is the *FCA*'s decision maker for some of the decisions under the *Payment Services Regulations* as set out in *DEPP 2 Annex 1G*. This builds a layer of separation into the process to help ensure not only that decisions are fair but that they are seen to be fair. The *RDC* will make its decisions following the procedure set out in *DEPP 3.2* or, where appropriate, *DEPP 3.3* and *3.4*. *DEPP 3.4* applies for urgent notices under regulations 12(6), 12(9), and 12(10)(b) (including as applied by regulations 15 and 19).

...

## **19.23 Electronic Money Regulations 2011**

...

Decision making under the Electronic Money Regulations

19.23.7 The *RDC* is the *FCA*'s decision maker for some of the decisions under the *Electronic Money Regulations* as set out in *DEPP 2 Annex 1G*. The *RDC* will make its decisions following the procedure set out in *DEPP 3.2* or, where appropriate, *DEPP 3.3* and *3.4*. *DEPP 3.4* applies for urgent notices under regulation 11(6), (9) and (10)(b) (including as applied by regulation 15).

...

## **19.27 Alternative Investment Fund Managers Regulations 2013**

...

Decision making under the AIFMD UK regulation

19.27.6 The *RDC* is the *FCA*'s decision maker for some decisions under the *AIFMD UK regulation*, as set out in *DEPP 2 Annex 1G*. The *RDC* will make its decisions following the procedure in *DEPP 3.2* or, where appropriate, *DEPP 3.3* and *3.4*. For decisions made by *executive procedures*, the procedures to be followed are in *DEPP 4*.

...

## **19.30 The Mortgage Credit Directive Order**

...

Decision making under the MCDO

- 19.30.8 The *RDC* is the *FCA*'s decision maker for some decisions which require *warning notices* or *decision notices* to be given under the MCDO as set out in *DEPP 2* Annex 1G. The *RDC* will make its decisions following the procedure set out in *DEPP 3.2* or, where appropriate, *DEPP 3.3*, and ~~*DEPP 3.4* applies for urgent notices under article 16(1)(a).~~

...

### **19.31 The Small and Medium Sized Business (Credit Information) Regulations**

...

Decision making under the Small and Medium Sized Business (Credit Information) Regulations

- 19.31.5 The *RDC* is the *FCA*'s decision maker for some decisions which require *warning notices* or *decision notices* to be given under the *Small and Medium Sized Business (Credit Information) Regulations*, as set out in *DEPP 2* Annex 1G. The *RDC* will make its decisions following the procedure in *DEPP 3.2* or, where appropriate, *DEPP 3.3* or ~~*DEPP 3.4*~~. For decisions made by executive procedures, the procedure to be followed will be those described in *DEPP 4*.

...

### **19.32 The Payment Accounts Regulations 2015**

...

Decision making under the PARs

- 19.32.7 The *RDC* is the *FCA*'s decision maker for some decisions which require *warning notices*, *decision notices* or other written notices to be given under the *PARs* as set out in *DEPP 2* Annex 1 and *DEPP 2* Annex 2. The *RDC* will make its decisions following the procedure set out in *DEPP 3.2* or, where appropriate, *DEPP 3.3* or ~~*DEPP 3.4*~~.

...

### **19.33 The Small and Medium Sized Business (Finance Platforms) Regulations 2015**

...

Decision making under the Small and Medium Sized Business (Finance Platforms) Regulations

- 19.33.5 The *RDC* is the *FCA*'s decision maker for some decisions which require *warning notices* or *decision notices* to be given under the *Small and Medium Sized Business (Finance Platforms) Regulations* as set out in *DEPP 2* Annex 1G. The *RDC* will make its decisions following the procedure in *DEPP 3.2* or,

where appropriate, *DEPP* 3.3 ~~or *DEPP* 3.4~~. For decisions made by *executive procedures*, the procedure to be followed will be those described in *DEPP* 4.