

Chapter 2

The FCA's approach to enforcement

2.10 Industry guidance

- 2.10.1** The *FCA* recognises that Industry Guidance has an important part to play in a principles- based regulatory environment, and that firms may choose to follow such guidance as a means of seeking to meet the *FCA*'s requirements. This will be true especially where Industry Guidance has been 'confirmed' by the *FCA*. ■ DEPP 6.2.1G(4) confirms that, as with *FCA guidance* and supporting materials, the *FCA* will not take action against a firm for behaviour that we consider is in line with *FCA*-confirmed Industry Guidance that was current when the conduct took place.
- 2.10.2** Equally, however, *FCA*-confirmed Industry Guidance is not mandatory. The *FCA* does not regard adherence to Industry Guidance as the only means of complying with *FCA rules* and *Principles*. Rather, it provides examples of behaviour which meets the *FCA*'s requirements; and non-compliance with confirmed Industry Guidance creates no presumption of a breach of those requirements.
- 2.10.3** Industry Guidance may be relevant to an enforcement case in ways similar to those described at paragraph ■ 2.9.4. But the *FCA* is aware of the concern that *firms* must have scope to exercise their own judgement about what *FCA rules* require, and that Industry Guidance should not become a new prescriptive regime in place of detailed *FCA rules*. This, and the specific status of *FCA*-confirmed Industry Guidance, will be taken into account when the *FCA* makes judgements about the relevance of Industry Guidance in enforcement cases.