































# Enforcement

---

The FMA has a variety of enforcement options available to address false, misleading, deceptive or confusing behaviour. The action taken will depend on the severity and level of misconduct.

For example, there may be instances where engagement through dialogue is sufficient to address a breach. Alternatively, this may extend to formal feedback letters, monitoring reports, or issuance of a public warning or a stop order.

For more information on the enforcement options available to the FMA, please refer to our [Regulatory Response Guidelines](#).

## Stop orders

A stop order is a regulatory tool that the FMA can use to stop or prevent advertising or disclosure that is false or misleading, or is likely to mislead or confuse<sup>15</sup> consumers or investors, on matters that influence their investment decision. A key difference between the stop order provisions and the fair dealing provisions is the reference to disclosure that is 'likely to confuse' – this is a lower threshold than 'likely to mislead'.

The FMA can issue a stop order to prevent or stop an issuer of a financial product from:

- distributing a PDS, other disclosure document or advertisement (including keeping its website live)
- continuing to offer a financial product
- accepting applications or deposits from customers for a financial product.

If the FMA considers that it is in the public interest to do so, we may issue an interim stop order while we consider the grounds for a stop order.

The FMA can issue a stop order without any need to go to court. Failure to comply with a stop order can result in a fine of up to \$300,000.

More egregious breaches of the fair dealing provisions may result in the FMA taking court action.

## Civil liability provisions

The fair dealing provisions are civil liability provisions. This means the courts have the discretion to issue civil liability orders, such as a pecuniary penalty order or compensatory order, for a breach of a fair dealing provision. In addition, civil liability orders can be made against not just the person in contravention, but also against those involved in the contravention. The aim is both to sanction the issuer for its misleading conduct and, where necessary, to seek redress for affected parties.

---

<sup>15</sup> A stop order can be used in other situations, and can apply more broadly than advertisements of offers of financial products. See section 462 of the FMC Act.