

Chapter 4

Code of Practice for Approved Persons: specific

4.4 Statement of Principle 4

- 4.4.1** **G** [deleted]
- 4.4.1A** **G** The *Statement of Principle 4* (see ■ APER 2.1A.3 R) is in the following terms:
"An *approved person* must deal with the *FCA*, the *PRA* and other regulators in an open and cooperative way and must disclose appropriately any information of which the *FCA* or the *PRA* would reasonably expect notice."
- 4.4.1B** **G**
- 4.4.2** **G** [deleted]
- 4.4.2A** **G** For the purpose of this *Statement of Principle*, regulators in addition to the *FCA* and the *PRA* are those which have recognised jurisdiction in relation to *regulated activities* and a power to call for information from the *approved person* in connection with their *accountable function* or (in the case of an individual performing an *accountable higher management function*) in connection with the business for which they are responsible. This may include an exchange or an *overseas regulator*.
- 4.4.2B** **G**
- 4.4.3** **G** In the opinion of the *FCA*, conduct of the type described in ■ APER 4.4.4G, ■ APER 4.4.7G or ■ APER 4.4.9G does not comply with *Statement of Principle 4*.
- 4.4.4** **G** Failing to report promptly in accordance with his *APER employer* internal procedures (or if none exist direct to the regulator concerned), information which it would be reasonable to assume would be of material significance to the regulator concerned), whether in response to questions or otherwise, falls within ■ APER 4.4.3 G. The regulator concerned is:
- (1) the *FCA* if it would be reasonable to assume that it would be of material significance to it;
 - (2) the *PRA* if it would be reasonable to assume that it would be of material significance to it;
 - (3) both the *FCA* and the *PRA* if it would be reasonable to assume that it would be of material significance to both of them.

4.4.5 **G** There is no duty on an *approved person* to report such information directly to the regulator concerned unless he is one of the *approved persons* responsible within the *APER employer* for reporting matters to the regulator concerned. However, if an *approved person* takes steps to influence the decision so as not to report to the regulator concerned or acts in a way that is intended to obstruct the reporting of the information to the regulator concerned, then the *FCA* will, in respect of that information, view that individual as being one of those within the *APER employer* who has taken on responsibility for deciding whether to report that matter to the regulator concerned.

4.4.6 **G** In determining whether or not an *approved person's* conduct under **APER 4.4.4 G** complies with *Statement of Principle 4*, the following are factors which, in the opinion of the *FCA*, are to be taken into account:

- (1) the likely significance to the regulator concerned (as defined in **APER 4.4.4 G**) of the information which it was reasonable for the individual to assume;
- (1) whether the information related to the individual himself or to his *APER employer*;
- (1) whether any decision not to report the matter internally was taken after reasonable enquiry and analysis of the situation.

4.4.7 **G** Where the *approved person* is, or is one of the *approved persons* who is, responsible within the *APER employer* for reporting matters to the regulator concerned (as defined in **APER 4.4.4G**), failing promptly to inform the regulator concerned of information of which they are aware and which it would be reasonable to assume would be of material significance to the regulator concerned, whether in response to questions or otherwise, falls within **APER 4.4.3G**.

4.4.8 **G** In determining whether or not an *approved person's* conduct under **APER 4.4.7G** complies with *Statement of Principle 4*, the following are factors which, in the opinion of the *FCA*, are to be taken into account:

- (1) the likely significance of the information to the regulator concerned (as defined in **APER 4.4.4G**) which it was reasonable for the *approved person* to assume;
- (2) whether any decision not to inform the regulator concerned (as defined in **APER 4.4.4G**) was taken after reasonable enquiry and analysis of the situation.

4.4.9 **G** Failing without good reason to:

- (1) inform a regulator of information of which the *approved person* was aware in response to questions from that regulator;
- (2) attend an interview or answer questions put by a regulator, despite a request or demand having been made;

- (3) supply a regulator with appropriate *documents* or information when requested or required to do so and within the time limits attaching to that request or requirement;

falls within ■ APER 4.4.3 G.