

Chapter 4

Code of Practice for Approved Persons: specific



4.1

Statement of Principle 1

- 4.1.1
- G
- [deleted]
- 4.1.1A
- G
- The *Statement of Principle 1* (see ■ APER 2.1A.3R) is in the following terms:
"An *approved person* must act with integrity in carrying out his *accountable functions*."
- 4.1.1B
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- 4.1.2
- G
- In the opinion of the *FCA*, conduct of the type described in ■ APER 4.1.3G, ■ APER 4.1.5G, ■ APER 4.1.6G, ■ APER 4.1.8G, ■ APER 4.1.10G, ■ APER 4.1.12G, ■ APER 4.1.13G, ■ APER 4.1.14G or ■ APER 4.1.15G does not comply with *Statement of Principle 1*.
- 4.1.3
- G
- Deliberately misleading (or attempting to mislead) by act or omission:

(1) a *client*; or

(2) his *APER employer* (or its auditors or an *actuary* appointed by his *APER employer* under ■ SUP 4 (Actuaries)); or

(3) the *FCA* or the *PRA*;

falls within ■ APER 4.1.2G.
- 4.1.4
- G
- Behaviour of the type referred to in ■ APER 4.1.3G includes, but is not limited to, deliberately:

(1) falsifying *documents*;

(2) misleading a *client* about the risks of an *investment*;

(3) misleading a *client* about the charges or surrender penalties of *investment products*;

(4) misleading a *client* about the likely performance of *investment products* by providing inappropriate *projections* of future *investment returns*;

(5) misleading a *client* by informing him that products require only a single payment when that is not the case;

- (6) mismarking the value of *investments* or trading positions;
- (7) procuring the unjustified alteration of prices on illiquid or *off-exchange* contracts, or both;
- (8) misleading others within the *APER employer* about the credit worthiness of a borrower;
- (9) providing false or inaccurate documentation or information, including details of training, qualifications, past employment record or experience;
- (10) providing false or inaccurate information to the *APER employer* (or to the *APER employer's* auditors or an *actuary* appointed by the *APER employer* under ■ SUP 4 (Actuaries));
- (11) providing false or inaccurate information to the *FCA* or the *PRA*;
- (12) destroying, or causing the destruction of, *documents* (including false documentation), or tapes or their contents, relevant to misleading (or attempting to mislead) a *client*, his *APER employer*, or the *FCA* or *PRA*.
- (13) failing to disclose dealings where disclosure is required by the *APER employer's* personal account *dealing rules*;
- (14) misleading others in the *APER employer* about the nature of risks being accepted.

4.1.5 G Deliberately recommending an *investment* to a *customer*, or carrying out a discretionary *transaction* for a *customer* where the *approved person* knows that they are unable to justify its suitability for that *customer*, falls within ■ APER 4.1.2G.

4.1.6 G Deliberately failing to inform, without reasonable cause:

- (1) a *customer*; or
- (2) his *APER employer* (or its auditors or an *actuary* appointed by his *APER employer* under ■ SUP 4 (Actuaries)); or
- (3) the *FCA* or the *PRA*;

of the fact that their understanding of a material issue is incorrect, despite being aware of their misunderstanding, falls within ■ APER 4.1.2G.

4.1.7 G Behaviour of the type referred to in ■ APER 4.1.6G includes, but is not limited to, deliberately:

- (1) failing to disclose the existence of falsified *documents*;
- (2) failing to rectify mismarked positions immediately.

4.1.8	G	Deliberately preparing inaccurate or inappropriate records or returns in connection with an <i>accountable function</i> , falls within ■ APER 4.1.2 G.
4.1.9	G	Behaviour of the type referred to in ■ APER 4.1.8G includes, but is not limited to, deliberately: <ol style="list-style-type: none"> (1) preparing performance reports for transmission to <i>customers</i> which are inaccurate or inappropriate (for example, by relying on past performance without appropriate warnings); (2) preparing inaccurate training records or inaccurate details of qualifications, past employment record or experience; (3) preparing inaccurate trading confirmations, contract notes or other records of <i>transactions</i> or holdings of <i>securities</i> for a <i>customer</i>, whether or not the <i>customer</i> is aware of these inaccuracies or has requested such records.
4.1.10	G	Deliberately misusing the assets or confidential information of a <i>client</i> or of their <i>APER employer</i> falls within ■ APER 4.1.2 G.
4.1.10	E	
4.1.11	G	Behaviour of the type referred to in ■ APER 4.1.10 G includes, but is not limited to, deliberately: <ol style="list-style-type: none"> (1) front running <i>client</i> orders; (2) carrying out unjustified trading on <i>client</i> accounts to generate a benefit (whether direct or indirect) to the <i>approved person</i> (that is, churning); (3) misappropriating a <i>client's</i> assets, including wrongly transferring to personal accounts cash or <i>securities</i> belonging to <i>clients</i>; (4) wrongly using one <i>client's</i> funds to settle margin calls or to cover trading losses on another <i>client's</i> account or on <i>APER employer</i> accounts; (5) using a <i>client's</i> funds for purposes other than those for which they were provided; (6) retaining a <i>client's</i> funds wrongly; (7) pledging the assets of a <i>client</i> as security or margin in circumstances where the <i>APER employer</i> is not permitted to do so.
4.1.12	G	Deliberately designing <i>transactions</i> to disguise breaches of requirements and standards of the <i>regulatory system</i> falls within ■ APER 4.1.2 G.
4.1.13	G	Deliberately failing to disclose the existence of a conflict of interest in connection with dealings with a <i>client</i> falls within ■ APER 4.1.2 G.

4.1.14 **G** Deliberately not paying due regard to the interests of a *customer* falls within ■ APER 4.1.2 G.

4.1.15 **G** Deliberate acts, omissions or business practices that could be reasonably expected to cause consumer detriment fall within ■ APER 4.1.2 G.