

Chapter 4

Code of Practice for Approved Persons: specific

4.2 Statement of Principle 2

- 4.2.1 **G** [deleted]
- 4.2.1A **G** The *Statement of Principle 2* (see ■ APER 2.1A.3 R) is in the following terms:
"An *approved person* must act with due skill, care and diligence in carrying out his *accountable functions*."
- 4.2.1B **G**
- 4.2.2 **G** In the opinion of the *FCA*, conduct of the type described in ■ APER 4.2.3G, ■ APER 4.2.5G, ■ APER 4.2.6G, ■ APER 4.2.8G, ■ APER 4.2.10G, ■ APER 4.2.11G or ■ APER 4.2.14G does not comply with *Statement of Principle 2*.
- 4.2.2A **G** In the opinion of the *FCA*, conduct of the type described in described in ■ APER 4.2.13 G does not comply with *Statement of Principle 2*.
- 4.2.3 **G** Failing to inform:
- (1) a *customer*; or
 - (2) his *firm* (or its auditors or an *actuary* appointed by his *firm* under ■ SUP 4 Actuaries));
- of material information in circumstances where they were aware, or ought to have been aware, of such information, and of the fact that they should provide it, falls within ■ APER 4.2.2G.
- 4.2.4 **G** Behaviour of the type referred to in ■ APER 4.2.3 G includes, but is not limited to:
- (1) failing to explain the risks of an *investment* to a *customer*;
 - (2) failing to disclose to a *customer* details of the charges or surrender penalties of *investment* products;
 - (3) mismarking trading positions;
 - (4) providing inaccurate or inadequate information to a *firm*, its auditors or an *actuary* appointed by his *firm* under ■ SUP 4 (Actuaries);

- (4) failing to disclose dealings where disclosure is required by the *firm's* personal account *dealing rules*.
- 4.2.5 **G** Recommending an *investment* to a *customer*, or carrying out a discretionary *transaction* for a *customer*, where the *approved person* does not have reasonable grounds to believe that it is suitable for that *customer*, falls within ■ APER 4.2.2 G.
- 4.2.6 **G** Undertaking, recommending or providing advice on *transactions* without a reasonable understanding of the risk exposure of the *transaction* to a *customer* falls within ■ APER 4.2.2 G.
- 4.2.7 **G** *Behaviour* of the type referred to in ■ APER 4.2.6 G includes, but is not limited to, recommending *transactions* in *investments* to a *customer* without a reasonable understanding of the liability (either potential or actual) of that *transaction*.
- 4.2.8 **G** Undertaking *transactions* without a reasonable understanding of the risk exposure of the *transaction* to the *firm* falls within ■ APER 4.2.2 G.
- 4.2.9 **G** *Behaviour* of the type referred to in ■ APER 4.2.8 G includes, but is not limited to, trading on the *firm's* own account without a reasonable understanding of the liability (either potential or actual) of the *transaction*.
- 4.2.10 **G** Failing without good reason to disclose the existence of a conflict of interest in connection with dealings with a *client* falls within ■ APER 4.2.2 G.
- 4.2.11 **G** Failing to provide adequate control over a *client's* assets falls within ■ APER 4.2.2 G.
- 4.2.12 **G** *Behaviour* of the type referred to in ■ APER 4.2.11 G includes, but is not limited to:
- (1) failing to segregate a *client's* assets;
 - (2) failing to process a *client's* payments in a timely manner.
- 4.2.13 **G** Continuing to perform a *controlled function* despite having failed to meet the standards of knowledge and skill set out in the Training and Competence sourcebook (TC) for that *controlled function* falls within ■ APER 4.2.2AG.
- 4.2.14 **G** Failing to pay due regard to the interests of a *customer*, without good reason, falls within ■ APER 4.2.2 G.