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## FINAL NOTICE

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**To:** Mark Kelly

**Address:** 2 Maplewood Road  
Wilmslow  
Cheshire  
SK9 2RY

**IRN:** MXK01838

**Dated:** 1 March 2016

### 1. ACTION

- 1.1 For the reasons given in this notice, the Authority hereby makes an order, pursuant to section 56 of the Financial Services and Markets Act 2000 (the "Act"), prohibiting Mark Kelly from performing any function in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm. This order takes effect from 1 March 2016.

### 2. SUMMARY OF REASONS

- 2.1 During the period from 20 August 2008 to 1 July 2010 (the "relevant period"), Mr Kelly traded under the name PCD Wealth and Pensions Management ("PCD").
- 2.2 During the relevant period, Mr Kelly demonstrated a lack of honesty and integrity such that he fails to meet the minimum regulatory standards of the Authority in that he:
- a) invested customers' pension funds in Portfolio Bonds, UCIS and other

investments without customers' knowledge or consent by a process designed to prevent customers from discovering that their funds had been so invested;

- b) invested customers' pension funds without any regard to the suitability of the investments for the customers;
- c) concealed information about fees and charges from customers;
- d) without customers' knowledge, received monies paid to him by product providers directly out of customers' investments having arranged with the relevant providers for this to be paid directly to a bank account in his name and under his control; and
- e) falsely certified (and permitted to be falsely certified in his name) copies of customers' passports as showing true likenesses of the customers without ever having met those customers.

2.3 Mr Kelly's failings were particularly serious for the following reasons:

- a) PCD potentially put many customers' pensions at risk. PCD arranged for advice to be given to over 350 customers in the UK and invested over £23,943,000 of those customers' money (an average investment of over £68,000 per customer) in the relevant period;
- b) two Unregulated Collective Investment Schemes ("UCIS") in which Mr Kelly invested customers' funds have suspended redemptions from the relevant funds. As a result, customers cannot access the portion of their pension funds invested in these UCIS until the suspension is lifted, so in certain cases they cannot use these funds to support themselves in retirement. The proportion of customers' funds invested in these two UCIS was considerable, typically over 45% in the cases the Authority has reviewed. The Authority reviewed one case in which Mr Kelly initially invested the customer's entire pension fund in UCIS (then sold half the holding six months later and reinvested it in a structured product, again without informing the customer or obtaining their consent);
- c) as set out in further detail below customers were not given a choice in relation to whether certain fees would be deducted from their pension funds. The impact of these fees on the customers' pension funds has been considerable. For example, in the ten month period between December 2009 and October 2010, one customer who started with pension funds of £101,125 paid fees of £4,217.30 to PCD and incurred fees of £2,788.77 to other parties, resulting in a reduction of capital of £7,006.07 (6.9% of the original fund) during this period alone; and
- d) some of the customers who provided witness statements to the Authority have also referred to the wider impact to their physical and emotional health caused by the situation in which they find themselves, with respect to their pension provision, in part as a result of the dishonesty of Mr Kelly.

2.4 Mr Kelly's failings and actions were designed to enable him to profit at the expense of consumers. They were calculated, prolonged and dishonest and he would have been aware of the clear risk that consumers would suffer a loss that their age would prevent them from recovering. Mr Kelly's failings are very serious and a prohibition order is essential in order to protect consumers.

- 2.5 The Authority therefore makes an order, pursuant to section 56 of the Act, prohibiting Mr Kelly from performing any function in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm. This order takes effect from 1 March 2016.
- 2.6 The Authority considers that this action is necessary and proportionate and that it supports the Authority's operational objective of securing an appropriate degree of protection for consumers.
- 2.7 The Authority has reviewed the cases of eight of Mr Kelly/PCD's customers and obtained witness statements from these customers. Save where not expressly stated, or if the context requires otherwise, references below to the cases reviewed by the Authority, or to witness statements, are to those eight customers.

### **3. DEFINITIONS**

"the Act" means the Financial Services and Markets Act 2000

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority

"EG" means the Authority's Enforcement Guide

"IFA" means Independent Financial Adviser

"PCD" means PCD Wealth and Pension Management

"Pension Switching" and "Pension Transfer" mean respectively switching from a one pension scheme to another and transferring from an occupational pension scheme to a personal pension scheme

"Portfolio Bond" means the unit-linked whole of life insurance policy which sat as an investment product within customers' SIPPs

"Portfolio Bond Provider" means the firm which provided the Portfolio Bonds into which PCD chose to invest customers' funds

"relevant period" means 20 August 2008 to 1 July 2010

"SIPP" means self-invested personal pension scheme

"SIPP Provider" means the firm which provided the SIPPs which PCD recommended to its customers

"UCIS" means unregulated collective investment scheme

### **4. FACTS AND MATTERS RELIED ON**

#### *Background*

- 4.1. During the relevant period, Mr Kelly traded as PCD. PCD was not a separate legal entity from Mr Kelly, but merely a name under which Mr Kelly traded in the UK.

#### *Overview of PCD's sales and investment process*

- 4.2. During the relevant period, PCD arranged for advice to be given to over 350 customers in the UK on pension switches and pension transfers and invested over £23,943,000 of those customers' funds (an average investment of over £68,000 per customer).
- 4.3. For example, Mr Gray (a PCD adviser), provided such advice in a number of these cases. Mr Gray and PCD/Mr Kelly's sales and investment process typically worked as follows:
  - a) Mr Gray contacted a prospective customer on an unsolicited basis and arranged a meeting with the customer with a view to discussing their pension arrangements;
  - b) At the meeting, Mr Gray discussed with the customer the benefits of switching/transferring their pension into a SIPP;
  - c) Mr Gray also collected customer identification documents (including copies of passports) from the customer and submitted them to PCD;
  - d) Mr Gray provided the customer with a document entitled *Pension Report*. In the pension reports reviewed by the Authority, the recommendation was invariably to switch/transfer their existing pension(s) into a SIPP;
  - e) Mr Gray completed certain sections of a SIPP application form with the customer and had the customer sign the partially completed form. Some sections, notably the section specifying the amount of fees payable to PCD from the customer's funds, were left blank by Mr Gray but were signed by the customer. Partially completed forms were then sent to PCD;
  - f) Mr Gray told the customer when he presented the pension report to them that a further meeting would take place at a future date at which recommendations would be made about investing the funds within the SIPP. The further meeting to discuss investments did not however take place or, if it did, it did not lead to the customer agreeing to invest the funds within the SIPP;
  - g) The remaining sections of the SIPP application form (including the section specifying fees payable to PCD from the customer's funds) were completed by or on behalf of Mr Kelly without further reference to the customer;
  - h) Mr Kelly submitted the SIPP application form and customer identification documentation to the SIPP provider. Sections of the application form (either as a separate form or as part of the SIPP application form) were completed by Mr Kelly (or on Mr Kelly's behalf) to allow a bank account to be opened to hold the customer's funds which had been transferred into their SIPP. As part of the bank account application, it was arranged for correspondence relating to the customer's SIPP bank account to be sent to PCD rather than directly to the customer;
  - i) Mr Kelly completed and signed parts of an application form for a Portfolio Bond in the customer's name. The Portfolio Bond application form did not

require the customer's signature and Mr Kelly did not inform the customer that the application was being made;

- j) As part of the application, Mr Kelly completed a form identifying himself as the customer's investment adviser. This form enabled Mr Kelly to give investment instructions on the customer's behalf without the customer's knowledge or consent, and enabled PCD to earn an annual fee. The customer did not have sight of this form;
- k) Mr Kelly then completed and submitted dealing instructions to invest the monies held in the customer's Portfolio Bond in underlying investments, including UCIS. The dealing instructions did not require the customer's signature and Mr Kelly did not inform the customer that the investments were being made; and
- l) Customers found out at a later date that their money had been used to buy the Portfolio Bond and underlying investment products including UCIS without their knowledge or consent, and that fees had been deducted from their funds.

4.4. Further details of Mr Kelly's role in PCD's sales and investment process are set out below.

#### *Completion of SIPP application forms*

- 4.5. Seven of the eight customers who provided witness statements to the Authority applied for a particular SIPP product using the same SIPP application form. These customers reported being asked to sign some sections of the SIPP application forms, notably the sections identifying the adviser and specifying the amount of fees payable to PCD from the customers' funds, before they had been completed.
- 4.6. The remaining sections of the SIPP application form were completed without further reference to the customer. These sections included the name of the customer's financial adviser (which was stated to be "Mr Kelly" in all the cases reviewed by the Authority), confirmation that the customer had received advice about the transaction from their adviser, and confirmation that the sale had been transacted on a face-to-face basis. In fact, Mr Kelly had not attended any meetings with customers or personally provided them with any advice on the transaction. The Authority considers that the information in the forms was intended to mislead the SIPP provider as to who was advising the customer face-to-face.
- 4.7. In the seven cases reviewed by the Authority, the Authority has concluded that Mr Kelly either completed and signed this page himself or it was signed and completed in Mr Kelly's name with his knowledge and on his behalf.
- 4.8. The relevant page of the SIPP application form also contained the question: "*Is the adviser to receive remuneration by deduction from the fund?*" and a box for the adviser to answer "yes" or "no". In the seven cases reviewed by the Authority, the "yes" box was ticked. A figure of 4% of the fund was filled in as the initial payment to PCD, plus a figure of 0.5% of the fund as renewal commission.
- 4.9. The adviser appointed by Mr Kelly/PCD, Mr Gray, told the Authority in interview that the SIPP application forms which came to him from Mr Kelly were "pre-populated" before he saw the customers, implying that customers (and Mr Gray)

would have been able to see the 4% fee payable to PCD from the customers' funds. However, in a conversation between Mr Gray and a customer which the customer secretly recorded, Mr Gray told the customer that the fees section of the application form was completed after the customer had signed it. On the basis of Mr Gray's admission to the customer, and the evidence from the four customers advised by Mr Gray (who provided witness statements to the Authority and used the relevant forms), who contradicted the suggestion that the forms were pre-populated with fees information, the Authority considers that the section of the forms relating to fees was in fact completed subsequently.

- 4.10. The Authority considers that the motive for inserting the level of fees payable to PCD from the customer's funds after the customer had signed the form was to conceal PCD's fees from the customer. By adding this information to the forms himself, or permitting another person to do so on his behalf, Mr Kelly deliberately concealed from the customer the fees payable to PCD from the customer's funds.

#### *Bank account application forms*

- 4.11. In addition to, or as part of the SIPP application form, PCD also completed sections of a bank account application form to enable the customer to open a bank account to hold the funds transferred into their SIPP.
- 4.12. A section on the application form named "*IFA CONFIRMATION*" named Mr Kelly as the customer's IFA and contained a signature purporting to be his.
- 4.13. As part of the bank account application, PCD arranged for correspondence relating to the customer's SIPP bank account to be sent to PCD rather than directly to the customer. The address given for bank statements was Suite 169 Courthill House, Cheshire, a business address used by Mr Kelly, and the contact email address began: "*mkelly@pcd...*".
- 4.14. This meant that customers did not receive copies of their bank statements directly. They were dependent on Mr Kelly to forward these statements to them. In the eight cases reviewed by the Authority the statements were not forwarded to the customers.
- 4.15. The bank statements demonstrated the receipt of funds from the customer's previous pension provider, the payment of fees to the SIPP Provider and to PCD, and the transfer of funds to the Portfolio Bond provider. Had Mr Kelly arranged for bank statements to be sent to the customer, or forwarded them to the customer, the customer would have been able to identify these transactions at the time and might have been able to take action to prevent the subsequent investment of their funds without their knowledge.
- 4.16. The Authority has concluded that Mr Kelly deliberately failed to provide customers with bank statements, or any information, relating to their SIPP bank accounts in order to hide the deduction of fees and the transfer of funds to the Portfolio Bond Provider from customers.

#### *Falsely certifying copies of passports*

- 4.17. As part of the SIPP application process, customers provided copies of their passports which were certified by PCD as true copies of the originals. The Authority reviewed seven cases where the following handwritten statement was present on the passport copies:

*"I hereby certify that this is a true copy of the original document and that the picture is a true likeness of the document holder".*

- 4.18. In each case, this statement was accompanied by a signature purporting to be Mr Kelly's, together with the date and Mr Kelly's name, title and address in Cyprus. The Authority has concluded that in all cases the statement was signed by or on behalf of Mr Kelly.
- 4.19. In fact, Mr Kelly had not met any of these customers and was not in a position to say whether the pictures were a true likeness or not. Mr Kelly knew that the certificates would be provided to the SIPP Provider.
- 4.20. The Authority has concluded that Mr Kelly completed and signed the certificates or permitted another person to do so in his name in order to mislead the SIPP Provider as to whether Mr Kelly had seen the customers when he certified the copies of the passports for the purpose of money laundering checks.

*Investment of customers' funds without their knowledge or consent*

- 4.21. The customers from whom the Authority obtained statements told the Authority that they had discovered after the event that the funds in their SIPP had been used to purchase a Portfolio Bond, and then invested in other products including UCIS, without their knowledge or consent.
- 4.22. Mr Kelly completed and signed parts of a Portfolio Bond application form for all eight of the customers who provided witness statements to the Authority, including a section specifying the level of fees to be earned by PCD.
- 4.23. The Portfolio Bond application form did not require the customer's signature and Mr Kelly did not inform customers that he was applying to purchase the Portfolio Bond on their behalf.
- 4.24. As part of the Portfolio Bond application, Mr Kelly completed an Investment Adviser Appointment Form. In all cases, Mr Kelly identified himself as the customer's investment adviser. This form enabled Mr Kelly to submit investment instructions on behalf of the customer and enabled PCD to be paid a fee of 1% per annum of the customer's funds invested in the Portfolio Bond. This fee was deducted directly from the customer's pension funds.
- 4.25. Mr Kelly then sent dealing instructions to the Portfolio Bond Provider instructing it to invest the customer's funds in other products, including UCIS. In all eight cases, Mr Kelly completed and signed the dealing instructions giving the email address "*mkelly@pcd...*" as the point of contact. Once again Mr Kelly did not inform the customers that he was making these investments on their behalf. In one particular case, Mr Kelly submitted dealing instructions to the Portfolio Bond Provider without any knowledge of the recommendations which were made to the relevant customer eight days later by the adviser that he had appointed, namely Mr Gray.
- 4.26. The Authority has therefore concluded that Mr Kelly intentionally and systematically invested customers' funds in the Portfolio Bond and underlying investments, including UCIS, without customers' consent, by a process he had established which enabled him to conceal from customers the fact that the investments were being made.

### *Unsuitable investments*

- 4.27. Mr Kelly's misconduct in investing customers' funds without their consent was exacerbated by the fact that he invested large proportions of customers' pension monies without any regard to the suitability of the investment for the individual customers. In the cases of the eight customers reviewed by the Authority, Mr Kelly invested their funds in UCIS which were high-risk, long term and/or illiquid. Mr Kelly should have known that UCIS were unsuitable for PCD's customers many of whom were nearing, or post, retirement.
- 4.28. The Authority has therefore concluded that Mr Kelly selected investments without any regard for their suitability for customers.

### *Failure to provide information to customers regarding fees and commission*

- 4.29. PCD received fees and commission in respect of customers' SIPPs, portfolio bonds and underlying investments. Customers also had to pay fees to third parties for administering their investments. Several of these fees, including PCD's 4% fee for advising on the SIPP and fees payable to third parties, were deducted directly from customers' pension funds. PCD also received commission from third parties who provided the products in which Mr Kelly invested customers' funds.
- 4.30. Mr Kelly failed to inform customers of the fees they would be charged from their funds as a result of investing in the SIPP, Portfolio Bond and underlying investments. Statements were sent direct to Mr Kelly in order to conceal the level of fees from customers. All the customers who provided statements to the Authority stated that they had not become aware of these fees until the fact that they had been charged became evident from their SIPP bank account statements and Portfolio Bond valuations which they generally did not receive until May 2010, typically months after the investments had been made.
- 4.31. The account into which PCD's fees and commission were paid was in part administered upon instructions received from Mr Kelly. For example, he gave instructions that certain payments be made to himself and a family member.
- 4.32. The total commission paid to PCD for business undertaken during the relevant period was approximately £3.1 million. Of this amount, the total sum which Mr Kelly arranged to be paid to himself and a member of his family was £1,040,912.64.
- 4.33. The Authority has therefore concluded that Mr Kelly intentionally concealed information about fees and commission from customers and, without customers' knowledge, received monies paid by product providers directly out of customers' investments.

### *Impact on customers*

- 4.34. Mr Kelly's misconduct has had a very serious impact on customers.
- 4.35. Two UCIS in which Mr Kelly invested customers' funds have publicly suspended redemptions from the relevant funds. As a result, customers cannot access the portion of their pension funds invested in these UCIS which in the cases reviewed by the Authority was over 45%. It is not clear when they will be able to do so. Many of the customers are retired and unable to earn back the sums they cannot access.



- 4.36. As set out above customers were not given a choice in relation to whether certain fees would be deducted from their pension funds. The impact of these fees on the customers' pension funds has been considerable. For example, in the ten month period between December 2009 and October 2010, one customer who started with pension funds of £101,125 paid fees of £4,217.30 to PCD and incurred fees of £2,788.77 to other parties, resulting in a reduction of capital of £7,006.07 (6.9% of the original fund) during this period alone.
- 4.37. Some of the customers who provided witness statements to the Authority have also referred to the wider impact on their physical and emotional health caused by the financial situation in which they have found themselves, with respect to their pension provision, in part as a result of the dishonesty of Mr Kelly.

#### *Warning Notice*

- 4.38. Through the Warning Notice dated 10 December 2015 (the "Warning Notice"), the Authority gave notice that it proposed to take the action described above and Mr Kelly was given the opportunity to make representations to the Authority about that proposed action.
- 4.39. No representations having been received by the Authority from Mr Kelly within the time allowed by the Warning Notice, the default procedures in DEPP 2.3.2G of the Authority's Decision Procedure and Penalties manual permitted the allegations/matters described in the Warning Notice to be regarded as undisputed and, accordingly, permitted the Authority to give a Decision Notice to Mr Kelly.

#### *Decision Notice*

- 4.40. Through the Decision Notice dated 12 January 2016 (the "Decision Notice"), the Authority gave Mr Kelly notice that it had decided to take the action described above.
- 4.41. Mr Kelly had 28 days from the date the Decision Notice was given to refer the matter to the Upper Tribunal. No referral was made to the Upper Tribunal.

## **5. FAILINGS**

- 5.1. The regulatory provisions relevant to this Final Notice are referred to in the Annex to this Notice.
- 5.2. By reason of the facts and matters set out in paragraphs 4.1 to 4.37 above, the Authority considers that during the relevant period, Mr Kelly demonstrated a lack of honesty and integrity such that he fails to meet the minimum regulatory standards of the Authority in that:
- a) he invested customers' pension funds in Portfolio Bonds, UCIS and other investments without customers' knowledge or consent by a process designed to prevent customers from discovering that their funds had been so invested;
  - b) he invested customers' pension funds without any regard to the suitability of the investments for the customers;
  - c) he concealed information about fees and charges from customers;

- d) without customers' knowledge, he received monies paid to him by product providers directly out of customers' investments and arranged with the product providers for these monies to be paid directly into a bank account in his name and under his control; and
- e) he falsely certified (and permitted to be falsely certified in his name) copies of customers' passports as showing true likenesses of the customers without having met those customers.

5.3. Mr Kelly's conduct fell far short of the minimum regulatory standards of honesty and integrity expected by the Authority. As a result, the Authority considers that Mr Kelly is not fit and proper to perform any function in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm.

## **6. SANCTION**

6.1. The Authority considers that, in support of its consumer protection objective, it is appropriate and proportionate in all the circumstances (including the nature and seriousness of Mr Kelly's failings and the serious risk which he poses to consumers) to prohibit Mr Kelly from performing any function in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm, because he is not a fit and proper person due to a lack of honesty and integrity. This order takes effect from 1 March 2016.

6.2. The Authority has had regard to the guidance set out in Chapter 9 of EG in proposing that Mr Kelly should be prohibited in the terms set out above. The relevant provisions of EG are set out in the Annex to this Notice.

## **7. PROCEDURAL MATTERS**

### **Decision maker**

7.1. The decision which gave rise to the obligation to give this Final Notice was made by the Regulatory Decisions Committee.

7.2. This Final Notice is given under, and in accordance with, section 390 of the Act.

### **Publicity**

7.3. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to Mr Kelly or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

7.4. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority contacts**

- 7.5. For more information concerning this matter generally, Mr Kelly should contact Matthew Hendin (direct line: 020 7066 0236) of the Enforcement and Market Oversight Division of the Authority.

**Rebecca Irving**  
**Project Sponsor**  
**Financial Conduct Authority, Enforcement and Market Oversight Division**

## **ANNEX**

### **1. RELEVANT STATUTORY PROVISIONS**

#### **The FCA's General Duties**

- 1.1. The Authority's operational objectives, set out in section 1B(3) of the Act, include the consumer protection objective.

#### **Prohibition Orders**

- 1.2. Section 56 of the Act provides that the Authority may make an order prohibiting an individual from performing a specified function or any function falling within a specified description of any function, if it appears to the Authority that that individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, exempt person or exempt professional firm (to whom, as a result of Part 20 of the Act, the general prohibition does not apply in relation to that activity). Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description, or all regulated activities.

### **2. RELEVANT REGULATORY PROVISIONS**

#### **The Fit and Proper Test for Approved Persons**

- 2.1. The part of the Authority's Handbook entitled "The Fit and Proper Test for Approved Persons" ("FIT") sets out the criteria that the Authority will consider when assessing the fitness and propriety of a candidate for a controlled function. FIT is also relevant in assessing the fitness and propriety of a person who is not approved.
- 2.2. FIT 1.3.1G states that the Authority will have regard to a number of factors when assessing a person's fitness and propriety. The most important considerations will be the person's honesty, integrity and reputation, competence and capability, and his financial soundness.
- 2.3. FIT 2.1.3G and 2.2.1G state that in determining a person's honesty, integrity, reputation, competence and capability the Authority will have regard to all relevant matters.

#### **The Authority's policy for exercising its power to make a prohibition order**

- 2.4. The Authority's policy in relation to prohibition orders is set out in Chapter 9 of EG.
- 2.5. EG 9.1 states that the Authority may exercise this power where it considers that, to achieve any of its regulatory objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities or to restrict the functions which he may perform.
- 2.6. EG 9.4 sets out the general scope of the Authority's powers in respect of prohibition orders, which include the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. EG 9.5 provides

that the scope of a prohibition order will depend on the range of functions that the individual performs in relation to regulated activities, the reasons why he is not fit and proper, and the severity of risk which he poses to consumers or the market generally.

- 2.7. EG 9.17 to 9.18 provides guidance on the Authority's exercise of its power to make a prohibition order against an individual who is not an approved person. The Authority will consider the severity of the risk posed by the individual and may prohibit the individual where it considers this is appropriate to achieve one or more of its regulatory objectives. When considering whether to exercise its power to make a prohibition order against such an individual, the Authority will consider all the relevant circumstances of the case, which may include but are not limited to the factors set out in EG 9.9.
- 2.8. EG 9.9 provides that when deciding whether to make a prohibition order the Authority will consider all the relevant circumstances of the case, which may include (but are not limited to):
- (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety are set out in FIT 2.1 (Honesty, integrity and reputation), FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
  - (2) the relevance and materiality of any matters indicating a lack of fitness and propriety;
  - (3) the length of time since the occurrence of any matters indicating lack of fitness and propriety; and
  - (4) the severity of the risk which the individual poses to consumers and to confidence in the financial system.
- 2.9. EG 9.12 provides examples of types of behaviour which have previously resulted in the Authority deciding to issue a prohibition order or withdraw the approval of an approved person. The examples include providing false or misleading information to the Authority and severe acts of dishonesty, for example, which may have resulted in financial crime.