
FINAL NOTICE

To: **Donald McKee Morgan**

Individual
Reference DMM00021
Number:

Date: 9 February 2012

1. ACTION

1.1. For the reasons given in this notice, the FSA hereby:

- (1) imposes on Donald McKee Morgan a financial penalty of £335,204;
- (2) withdraws the approval granted to Mr Morgan to perform controlled functions CF4 (partner), CF10 (compliance oversight), CF11 (money laundering reporting) and CF30 (customer); and
- (3) makes an order prohibiting Mr Morgan from performing any function in relation to any regulated activities carried on by any authorised or exempt persons, or exempt professional firm.

- 1.2. The financial penalty consists of:
- (1) disgorgement of financial benefit of £222,504 arising from Mr Morgan's misconduct;
 - (2) an additional punitive element of £112,700.
- 1.3. Mr Morgan agreed to settle at an early stage of the FSA's investigation. Mr Morgan therefore qualified for a 30 per cent (Stage 1) discount under the FSA's executive settlement procedures. Were it not for this discount, the punitive element of the financial penalty would have been £161,000.

2. SUMMARY OF REASONS

- 2.1. Mr Morgan set up Donald Morgan Insurance Services ("DMIS") in 1983 and held the CF4 (Partner) function at that firm from 1 December 2001. From approximately 2005 until 2010 ("the relevant period"), Mr Morgan deliberately retained insurance premium payments from a number of DMIS's clients which should have been paid to insurers via a network ("Network A") of which DMIS was a member, and deliberately manipulated DMIS's computer systems and falsified monthly reports in order to conceal his conduct from Network A. In so doing, Mr Morgan acted dishonestly and abused the trust and confidence placed in him by clients and other firms. His actions led to Network A suffering financial loss as it paid premiums to insurers on behalf of DMIS's clients when it had not received these premiums from DMIS.
- 2.2. Mr Morgan's conduct demonstrates a lack of honesty and integrity and therefore of fitness and propriety, and constitutes a breach of Statement of Principle 1 of the FSA's Statements of Principle. The FSA considered that the nature and seriousness of the breaches outlined above warranted the imposition of a substantial financial penalty as well as the withdrawal of Mr Morgan's approval to perform controlled functions and the imposition of an order prohibiting him from performing any function in relation to any regulated activities carried on by any authorised or exempt persons, or exempt professional firm. These actions support the FSA's regulatory objectives to reduce financial crime, maintain market confidence and protect consumers.

3. DEFINITIONS

- 3.1. The following definitions are used in this Final Notice:

"the FSA" means the Financial Services Authority

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

"DMIS" means Donald Morgan Insurance Services

"Statements of Principle" means the FSA's Statements of Principle for Approved Persons

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber)

“the FSA Handbook” means the FSA Handbook of rules and guidance

“EG” means the FSA’s Enforcement Guide

“DEPP” means the FSA’s Decision Procedure and Penalties Manual.

4. FACTS AND MATTERS

Background

- 4.1. DMIS, a small firm based in Ayrshire, Scotland, was established by Mr Morgan in 1983. During the relevant period, the focus of DMIS’s business was arranging insurance cover for retail and commercial customers.
- 4.2. DMIS was authorised by the FSA on 1 December 2001 and during the relevant period held the following permissions:
 - (1) advising on investments (except on Pension Transfers and Pension Opt Outs);
 - (2) agreeing to carry on a regulated activity;
 - (3) arranging (bringing about) deals in investments;
 - (4) assisting in the administration and performance of a contract of insurance;
 - (5) dealing in investments as agent; and
 - (6) making arrangements with a view to transactions in investments.
- 4.3. Mr Morgan was responsible for insurance mediation at DMIS from 14 January 2005 and he held the following controlled functions:
 - (1) CF4 (partner) from 1 December 2001;
 - (2) CF10 (compliance oversight) from 1 December 2001;
 - (3) CF11 (money laundering reporting) from 1 December 2001;
 - (4) CF30 (customer) since 1 November 2007.
- 4.4. On 23 September 2010, Mr Morgan submitted a voluntary application for variation of DMIS’s Part IV permission to the FSA with the effect that DMIS ceased conducting all regulated activities on that date. DMIS’s book of business was sold to Network A’s parent company for a nominal sum in late 2010.

Conduct in issue

- 4.5. In 1998, DMIS became a member of Network A which provided compliance services to a number of insurance brokers and handled client money for many of them, including DMIS which did not have permission to hold client money.
- 4.6. Pursuant to the terms of business between DMIS and Network A in force during the relevant period, DMIS was required to ensure that its clients paid their insurance premiums directly into an account managed by Network A. Network A would make net premium payments from this account to the insurers on behalf of DMIS's clients.
- 4.7. From around 2005, DMIS began to face financial difficulties, losing its three largest clients over a period of three years. Contrary to an amended terms of business agreement introduced by Network A in October 2005, Mr Morgan allowed 22 of DMIS's clients (mainly commercial clients) to continue to pay their insurance premiums directly to DMIS rather than into Network A's account. Mr Morgan misappropriated those premiums, using the money to fund salary payments to staff and to support his lifestyle.
- 4.8. Mr Morgan manipulated DMIS's computer system and falsified monthly reports to Network A to conceal his misappropriation of premiums. Network A did not detect the misappropriation and made payments to the relevant insurers. DMIS's clients were therefore never uninsured. However, Network A suffered significant financial loss.
- 4.9. Mr Morgan has since told the FSA that he hoped that DMIS's financial situation would improve but that this did not happen and eventually he realised that he had to deal with his misconduct. Consequently, in or around July or August 2010, Mr Morgan approached Network A to inform it of his misconduct and to discuss repaying the monies it had paid to insurers on behalf of DMIS's clients.
- 4.10. Network A subsequently issued bankruptcy proceedings against Mr Morgan on the basis that it was owed monies as a direct consequence of Mr Morgan's misconduct in retaining clients' insurance premium payments. On 7 April 2011 Mr Morgan was adjudged bankrupt and a sequestration order was made against his estate.
- 4.11. On 4 August 2010, Mr Morgan contacted the FSA and provided details of the manner in which he misappropriated the insurance premium payments, as described above. Mr Morgan has expressed significant remorse for his actions, and has cooperated fully with the FSA's investigation into these matters.

5. FAILINGS

- 5.1. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
- 5.2. Mr Morgan breached Statement of Principle 1 in that he failed to act with integrity in carrying out his controlled functions. Specifically, he:

- (1) deliberately and dishonestly retained insurance premium payments from a number of DMIS's clients which should have been paid to Network A; and
 - (2) deliberately and dishonestly manipulated DMIS's computer systems and falsified monthly reports in order to conceal his conduct from Network A.
- 5.3. These facts, and Mr Morgan's breach of Statement of Principle 1, demonstrate that Mr Morgan lacks honesty and integrity and is therefore not a fit and proper person.

6. SANCTION

Financial penalty

- 6.1. As Mr Morgan breached Statement of Principle 1, the FSA may impose a financial penalty on him pursuant to section 66 of the Act. The FSA's policy on the imposition of a financial penalty is set out in Chapter 6 of DEPP which forms part of the FSA Handbook. On 6 March 2010, the FSA adopted a new penalty-setting regime. As Mr Morgan's misconduct began in 2005, well before the adoption of the new regime, and the misconduct continued for only a short time after March 2010, the FSA considered this case under the regime which applied before 6 March 2010.
- 6.2. The FSA also had regard to the corresponding provisions of Chapter 7 of EG and Chapter 13 of the Enforcement Manual which was in force during part of Mr Morgan's misconduct.
- 6.3. The principal purpose of imposing a financial penalty is to promote high standards of regulatory conduct by deterring persons who have committed breaches from committing further breaches, helping to deter other persons from committing similar breaches and demonstrating generally the benefits of compliant behaviour. A financial penalty is a tool that the FSA may employ to help it achieve its regulatory objectives.
- 6.4. In determining whether a financial penalty is appropriate, the FSA is required to consider all the relevant circumstances of a case. Applying the criteria set out in DEPP 6.2.1G (regarding whether or not to take action for a financial penalty or public censure) and 6.4.2G (regarding whether to impose a financial penalty or a public censure), the FSA considered that a financial penalty is an appropriate sanction, given the serious nature of the breaches.
- 6.5. DEPP 6.5.2G sets out a non-exhaustive list of factors which may be relevant to determining the appropriate level of financial penalty. The FSA considered that the following factors were particularly relevant in this case.

Deterrence (DEPP 6.5.2G(1))

- 6.6. The FSA considered that a financial penalty should be imposed to demonstrate to Mr Morgan and others the seriousness with which the FSA regards his behaviour.

The nature, seriousness and impact of the breach in question (DEPP 6.5.2G(2))

- 6.7. Mr Morgan acted dishonestly repeatedly and over a long period of time, accruing personal benefit as a result and causing loss to Network A.

The extent to which the breach was deliberate or reckless (DEPP 6.5.2G(3))

- 6.8. Mr Morgan committed the breaches deliberately.

Whether the person on whom the penalty is to be imposed is an individual (DEPP 6.5.2G(4)) and the financial resources of the person on whom the penalty is to be imposed (DEPP 6.5.2G(5))

- 6.9. The FSA took into account in determining the amount of penalty to be imposed that Mr Morgan is an individual and that enforcement action may have a greater impact on him than it would on a firm.

- 6.10. The FSA also took into account the fact that Mr Morgan is bankrupt and that his estate is subject to a sequestration order. Notwithstanding Mr Morgan's bankruptcy, the FSA considered the seriousness of Mr Morgan's misconduct warranted the imposition of a financial penalty.

The amount of benefit gained or loss avoided (DEPP 6.5.2G(6))

- 6.11. The FSA considered that Mr Morgan should not be allowed to retain the amount of benefit he gained from his misconduct. It has proved difficult to precisely quantify this amount but Mr Morgan admitted that he misappropriated £222,504. The FSA considered that this figure represents the minimum amount taken but in all the circumstances considered it appropriate to seek disgorgement of this figure. This amount therefore made up the disgorgement element of the financial penalty in this case.

Conduct following the breach (DEPP 6.5.2G(8))

- 6.12. Mr Morgan voluntarily drew his misappropriation of insurance premiums to Network A's attention and subsequently contacted the FSA to inform it of his misconduct. In September 2010 he submitted a voluntary application to vary DMIS's permissions so that it could no longer engage in regulated activities, thereby allaying the FSA's concerns that he might pose an ongoing risk in the insurance industry. Mr Morgan expressed significant remorse about his actions and co-operated fully with the FSA's investigation. Were it not for these facts, the punitive element of the financial penalty would have been higher.

Other action taken by the FSA (DEPP 6.5.2G(10))

- 6.13. In determining the level of financial penalty, the FSA took into account penalties imposed by the FSA on other approved persons for similar behaviour. This was considered alongside the deterrent purpose for which the FSA imposes sanctions.

Conclusion on financial penalty

- 6.14. In conclusion, having regard to all the circumstances, the FSA considered the appropriate level of financial penalty to be £383,504, comprising disgorgement of financial benefit in the amount of £222,504 and a punitive element of £161,000 (before stage 1 discount).

Prohibition order and withdrawal of approval

- 6.15. Mr Morgan demonstrated a lack of honesty and integrity and is therefore not a fit and proper person to perform regulated activities. The FSA has therefore made an order prohibiting Mr Morgan from performing any function in relation to any regulated activities carried on by any authorised or exempt persons, or exempt professional firm pursuant to section 56 of the Act, and to withdraw his approval to perform controlled functions CF4 (partner), CF10 (compliance oversight), CF11 (money laundering reporting) and CF30 (customer) pursuant to section 63 of the Act.

7. PROCEDURAL MATTERS

Decision maker

- 7.1. The decision which gave rise to the obligation to give this Final Notice was made by the Settlement Decision Makers.
- 7.2. This Final Notice is given under, and in accordance with, section 390 of the Act.

Manner of and time for payment

- 7.3. The financial penalty must be paid in full by Donald Morgan to the FSA by no later than 23 February 2012, 14 days from the date of this Final Notice.

If the financial penalty is not paid

- 7.4. If all or any of the financial penalty is outstanding on 24 February 2012, the FSA may recover the outstanding amount as a debt owed by Donald Morgan and due to the FSA.

Publicity

- 7.5. 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 FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.
- 7.6. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

8. FSA contacts

- 8.1. For more information concerning this matter generally, contact Paul Howick at the FSA (direct line: 020 7066 7954/ email: paul.howick@fsa.gov.uk).

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Tom Spender
FSA Enforcement and Financial Crime Division

Annex A

STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

1. Relevant statutory provisions

- 1.1. The FSA's regulatory objectives, as set out in Section 2(2) of the Act, include the protection of consumers, maintaining confidence in the UK financial system and the reduction of financial crime.
- 1.2. The FSA has the power, pursuant to Section 56 of the Act, to make a prohibition order against an individual prohibiting that individual from performing a specified function, any function falling within a specified description, or any function, if it appears to the FSA that the individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person.
- 1.3. Section 63 of the Act provides that the FSA may withdraw an approval given under section 59 of the Act if it considers that the person in respect of whom it was given is not a fit and proper person to perform the function to which the approval relates.
- 1.4. Section 66 of the Act provides that the FSA may take action against a person if it appears to the FSA that he is guilty of misconduct and the FSA is satisfied that it is appropriate in all the circumstances to take action against him. Misconduct includes failure, while an approved person, to comply with a statement of principle issued under section 64 of the Act. The action that may be taken by the FSA pursuant to section 66 of the Act includes the imposition of a penalty on the approved person of such amount as it considers appropriate.

2. Relevant Handbook provisions

Fit and Proper Test for Approved Persons

- 2.1 The section of the FSA Handbook entitled "FIT" sets out the Fit and Proper test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function. FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
- 2.2 FIT 1.3 provides that the FSA will have regard to a number of factors when assessing the fitness and propriety of a person. The most important considerations will be the person's honesty, integrity and reputation, competence and capability, and financial soundness.
- 2.3 In determining a person's honesty, integrity and reputation, FIT 2.1 provides that the FSA will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3G. FIT 2.1.3G includes:

- (1) whether the person has contravened any of the requirements and standards of the regulatory system (FIT 2.1.3G (5)); and
- (2) whether, in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards (FIT 2.1.3G (13)).

Statements of Principle and Code of Practice for Approved Persons (“APER”)

- 2.4 APER sets out the fundamental obligations of approved persons and sets out examples of conduct, which, in the opinion of the FSA, does not comply with the relevant Statements of Principle. It also sets out, in certain cases, factors to be taken into account in determining whether an approved person’s conduct complies with a Statement of Principle.
- 2.5 APER 3.1.3G provides that, when establishing compliance with, or a breach of, a Statement of Principle, account will be taken of the context in which a course of conduct was undertaken, including the precise circumstances of the individual case, the characteristics of the particular controlled function and the behaviour expected in that function.
- 2.6 APER 3.1.4G provides that an approved person will only be in breach of a Statement of Principle if they are personally culpable, that is, where their conduct was deliberate or where their standard of conduct was below that which would be reasonable in all the circumstances.
- 2.7 In this case, the FSA considered the most relevant of the Statement of Principle to be Statement of Principle 1 which states that an approved person must act with integrity in carrying out his controlled function (APER 2.1.2P).
- 2.8 APER 4.1 sets out examples of behaviour which the FSA considers does not comply with Statement of Principle 1. Examples of such conduct are:
 - (1) falsifying documents (APER 4.1.4E(1));
 - (2) deliberately preparing inaccurate or inappropriate records or returns in connection with a controlled function (APER 4.1.8E); and
 - (3) deliberately misusing the assets or confidential information of a client or of his firm (APER 4.1.10E), including:
 - (a) misappropriating a client's assets, including wrongly transferring to personal accounts cash or securities belonging to clients (APER 4.1.11E(3));

- (b) using a client's funds for purposes other than those for which they were provided (APER 4.1.11E(5)); and
- (c) retaining a client's funds wrongly (APER 4.1.11E(6)).

3. Other relevant regulatory provisions

FSA policy on the imposition of financial penalties

- 3.1 In considering the appropriate sanction, the FSA has had regard to its published guidance. The FSA's policy in relation to the imposition of financial penalties is set out in Chapter 6 of DEPP which forms part of the Handbook. It was previously set out in Chapter 13 of the Enforcement Manual (ENF), to which the FSA has had regard in this case.
- 3.2 The Decision Procedure and Penalties Manual (Financial Penalties) Instrument 2010, which came into force on 6 March 2010, made changes to DEPP. As the misconduct described in the Final Notice mostly occurred prior to 6 March 2010, the FSA has had regard to the provisions of DEPP in force prior to 6 March 2010.
- 3.3 DEPP 6.1.2G provides that the principal purpose of imposing a financial penalty is to promote high standards of regulatory and/or market conduct by deterring persons who have committed breaches from committing further breaches, helping to deter other persons from committing similar breaches, and demonstrating generally the benefits of compliant behaviour.
- 3.4 The FSA will consider the full circumstances of each case when determining whether or not to take action for a financial penalty (DEPP 6.2.1G). DEPP 6.2.1G sets out guidance on a non-exhaustive list of factors that may be of relevance in determining whether to take action for a financial penalty, which include the following:-
 - (1) DEPP 6.2.1G(1): The nature, seriousness and impact of the suspected breach, including whether the breach was deliberate or reckless, the duration and frequency of the breach, the amount of any benefit gained or loss avoided as a result of the breach, the loss or risk of loss caused to consumers or other market users, and the nature and extent of any financial crime facilitated, occasioned or otherwise attributable to the breach.
 - (2) DEPP 6.2.1G(2): The conduct of the person after the breach, including how quickly, effectively and completely the person brought the breach to the attention of the FSA, and the degree of co-operation the person showed during the investigation of the breach.
 - (3) DEPP 6.2.1G(5): Action taken by the FSA in previous similar cases.

- 3.5 DEPP 6.5.1G(1) provides that the FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty (if any) that is appropriate and in proportion to the breach concerned.
- 3.6 DEPP 6.5.2G sets out a non-exhaustive list of factors that may be relevant to determining the appropriate level of financial penalty to be imposed on a person under the Act. The following factors are relevant to this case:

(1) Deterrence DEPP 6.5.2G(1)

When determining the appropriate level of penalty, the FSA will have regard to the principal purpose for which it imposes sanctions, namely to promote high standards of regulatory and/or market conduct by deterring persons who have committed breaches from committing further breaches and helping to deter other persons from committing similar breaches, as well as demonstrating generally the benefits of compliant business.

(2) The nature, seriousness and impact of the breach in question DEPP 6.5.2G(2)

The FSA will consider the seriousness of the breach in relation to the nature of the rule, requirement or provision breached. Relevant considerations include the duration and frequency of the breach, the loss or risk of loss caused to consumers, investors or other market users and the nature and extent of any financial crime facilitated, occasioned or otherwise attributable to the breach.

(3) The extent to which the breach was deliberate or reckless DEPP 6.5.2G(3)

The FSA will regard as more serious a breach which is deliberately or recklessly committed. If the FSA decides that the breach was deliberate or reckless, it is more likely to impose a higher penalty on a person than would otherwise be the case.

(4) Whether the person on whom the penalty is to be imposed is an individual DEPP 6.5.2G(4)

When determining the amount of a penalty to be imposed on an individual, the FSA will take into account that individuals will not always have the resources of a body corporate, that enforcement action may have a greater impact on an individual, and further, that it may be possible to achieve effective deterrence by imposing a smaller penalty on an individual than on a body corporate. The FSA will also consider whether the status, position and/or responsibilities of the individual are such as to make a breach committed by the individual more serious and whether the penalty should therefore be set at a higher level.

(5) The size, financial resources and other circumstances of the person on whom the penalty is to be imposed DEPP 6.5.2G(5)

The FSA may take into account whether there is verifiable evidence of serious financial hardship or financial difficulties if the person were to pay the level of penalty appropriate for the particular breach. The FSA regards these factors as matters to be taken into account in determining the level of a penalty, but not to the extent that there is a direct correlation between those factors and the level of penalty.

The purpose of a penalty is not to render a person insolvent or to threaten the person's solvency. Where this would be a material consideration, the FSA will consider, having regard to all other factors, whether a lower penalty would be appropriate. This is most likely to be relevant to a person with lower financial resources; but if a person reduces its solvency with the purpose of reducing its ability to pay a financial penalty, for example by transferring assets to third parties, the FSA will take account of those assets when determining the amount of a penalty.

(6) The amount of benefit gained or loss avoided DEPP 6.5.2G(6)

The FSA may take account of the amount of benefit gained or loss avoided by the individual as a result of his misconduct and will impose a penalty consistent with the principle that the person should not benefit from his misconduct.

(7) Conduct following the breach DEPP 6.5.2G(8)

The FSA may take into account the conduct of the person in bringing (or failing to bring) quickly, effectively and completely the breach to the FSA's attention, and the degree of co-operation the person showed during the investigation of the breach by the FSA.

(8) Other action taken by the FSA (or a previous regulator): DEPP 6.5.2G(10)

Action that the FSA has taken in relation to similar breaches by other persons may be taken into account. As stated at DEPP 6.5.1G(2), the FSA does not operate a tariff system. However, the FSA will seek to apply a consistent approach to determining the appropriate level of penalty.

(9) Discount for early settlement: DEPP 6.7.2G

Where a person receives a percentage reduction on a financial penalty for early settlement of enforcement action against him, if part of the financial penalty specifically equates to the disgorgement of profit accrued then the percentage reduction will not apply to that part of the penalty.

FSA policy for exercising its power to make a prohibition order and/or withdraw approval

- 3.7 The FSA's approach to exercising its powers to make prohibition orders and/or withdraw approval is set out in EG.

- 3.8 EG 9.1 provides that the FSA's power under section 56 of the Act to prohibit individuals who are not fit and proper from carrying out controlled functions in relation to regulated activities helps the FSA to work towards achieving its regulatory objectives. The FSA may exercise this power to make a prohibition order where it considers that, to achieve any of those 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.
- 3.9 EG 9.2 states that the FSA's effective use of the power under section 63 of the Act to withdraw approval from an approved person will also help to ensure high standards of regulatory conduct by preventing an approved person from continuing to perform the controlled function to which the approval relates if he is not a fit and proper person to perform that function. Where it considers this is appropriate, the FSA may prohibit an approved person, in addition to withdrawing their approval.
- 3.10 EG 9.4 sets out the general scope of the FSA'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 activities 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.
- 3.11 EG 9.8 to 9.14 provide guidance on the FSA's approach to making prohibition orders against approved persons and/or withdrawing such persons' approvals.
- 3.12 EG 9.8 states that, when it has concerns about the fitness and propriety of an approved person, the FSA may consider whether it should prohibit that person from performing functions in relation to regulated activities, withdraw its approval, or both. The FSA will, in each case, consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions, for example, public censures or financial penalties, or by issuing a private warning.
- 3.13 EG 9.9 states that, when deciding whether to make a prohibition order against an approved person and/or withdraw his approval, the FSA will consider all the relevant circumstances of the case which may include, but are not limited to, the following factors (among others):
- (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety of an approved person are contained in FIT 2.1 (Honesty, integrity and reputation); FIT 2.2 (Competence and capability); and FIT 2.3 (Financial soundness);
 - (2) whether, and to what extent the approved person has failed to comply with the Statements of Principle;
 - (3) the relevance and materiality of any matters indicating unfitness;

- (4) the length of time since the occurrence of any matters indicating unfitness; and
 - (5) the severity of the risk which the individual poses to consumers and to confidence in the financial system.
- 3.14 EG 9.12 provides examples of types of behaviour which have previously resulted in the FSA deciding to issue a prohibition order or withdraw the approval of an approved person. The examples include severe acts of dishonesty, for example, which may have resulted in financial crime, and serious breaches of the Statements of Principle.
- 3.15 EG 9.23 provides that in appropriate cases the FSA may take other action against an individual in addition to making a prohibition order and/or withdrawing its approval, including the use of its power to impose a financial penalty.