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**FINAL NOTICE**

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To: **Anthony Rendell Boyd Wills**

Individual  
Reference  
Number: **ARW01201**

4 March 2015

**1. ACTION**

- 1.1. For the reasons given in this notice, the Authority hereby imposes on Mr Anthony Rendell Boyd Wills ("Mr Wills") a financial penalty of £19,600.
- 1.2. Mr Wills agreed to settle at an early stage of the Authority's investigation and therefore qualified for a 30% (stage 1) discount under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed on Mr Wills a financial penalty of £28,000.

**2. SUMMARY OF REASONS**

- 2.1. Between 1 September 2011 and 3 December 2012 (the "Relevant Period") Mr Wills, in his capacity as Compliance Officer at Bank of Beirut, failed to deal with the Authority in an open and cooperative way and failed to disclose appropriately to the Authority information of which it would reasonably expect notice. Mr Wills' conduct amounted to a breach of Principle 4 of the Authority's Statement of Principles for Approved Persons, and could have left Bank of Beirut open to the risk it might be used to further financial crime, including money laundering and terrorist financing.

- 2.2. The Authority visited Bank of Beirut in 2010 and 2011 and became concerned that the culture at Bank of Beirut was one of insufficient consideration of risk or regulation, despite the high risk that its business might be exploited to facilitate financial crime. These visits took place prior to Mr Wills' arrival at the Bank. The Authority required Bank of Beirut to take specific actions to address the Authority's concerns and to counter the risk that it would be used to facilitate financial crime. These included a requirement that Bank of Beirut develop, implement and conduct a compliance monitoring plan designed to help Bank of Beirut monitor its compliance with its regulatory obligations and to counter the risk of financial crime.
- 2.3. Mr Wills was employed as Compliance Officer of Bank of Beirut from 18 July 2011. He was tasked with addressing a number of the Authority's required actions and in particular, Mr Wills was responsible for developing and implementing the compliance monitoring plan. In addition, Mr Wills handled almost all of Bank of Beirut's communications with the Authority (although others were involved in the drafting, including senior management) in relation to its completion of the required action points during the Relevant Period.
- 2.4. Mr Wills' Principle 4 breach is serious because the Authority relied on its communications with Mr Wills to gain comfort that Bank of Beirut had completed the Authority's required action points. The Authority expects to have an open and cooperative relationship with Compliance Officers at the firms it supervises. Compliance Officers have a significant influence on the conduct of a firm's affairs, and the Authority must be able to rely upon any confirmations received from a Compliance Officer that actions have been completed and risks mitigated or resolved. It is essential that Compliance Officers give due consideration to their regulatory obligations at all times. Timely and proactive communication with the Authority is of fundamental importance to their role.
- 2.5. Principle 4 requires approved persons to deal with the FCA in an open and cooperative way and to disclose appropriately any information of which the FCA would reasonably expect notice. In breach of this Principle, Mr Wills:
- (1) Failed, throughout the Relevant Period, to inform the Authority about delays in Bank of Beirut's implementation of the compliance monitoring plan and the lack of compliance monitoring. This was information of which the Authority would reasonably expect notice. Mr Wills failed to maintain an open and cooperative dialogue with the Authority in this respect. For

example, in an internal email to senior management Mr Wills stated that he was "*fairly guarded*" during a conversation with the Authority about the compliance monitoring plan.

(2) Knowingly provided incorrect information to the Authority on a number of occasions which suggested that Bank of Beirut had completed the compliance actions required by the Authority when it had not, including:

(a) On 26 June 2012, Mr Wills provided a confirmation to the Authority that all of the compliance action points had been implemented. Mr Wills knew this to be false because he was aware (at least) that the Bank had not implemented and conducted an adequate compliance monitoring plan by this date.

(b) On 30 July 2012, Mr Wills submitted a report to the Authority which gave the impression that the Bank had already begun to implement a more sophisticated compliance monitoring plan, or that the Bank would implement it imminently. This was misleading. In fact the implementation of the compliance monitoring plan was not imminent and Mr Wills knew this to be the case.

(c) Mr Wills did not take the opportunity to correct this misleading impression when providing comments on a further report which was submitted to the Authority on 3 August 2012.

(d) On 13 August 2012, in a telephone call with the Authority, Mr Wills stated that the compliance monitoring plan had begun to be implemented even though he knew that it had not.

2.6. Mr Wills' Principle 4 breach is serious because the Authority relied on its communications with Mr Wills to gain comfort that the Bank had completed the Authority's required action points.

2.7. Mr Wills has suggested that he was not provided with sufficient resource to conduct his role as Compliance Officer at Bank of Beirut, that at times he felt under pressure from senior management to be "*careful*" in his communications with the Authority and that he was not given "*licence*" to explain issues fully to the Authority. While the Authority recognises that Mr Wills' actions were influenced by comments made by senior management, this does not excuse his misconduct. As Compliance Officer with responsibility for communicating with the

Authority, Mr Wills' role at the Bank was particularly significant. Mr Wills was uniquely placed to understand the full position in relation to Bank of Beirut's regulatory compliance and as such should have resisted any senior management influence in this regard. As an approved person, he remained personally bound by his own regulatory responsibilities.

- 2.8. Mr Wills failed to deal with the Authority in an open and co-operative way. The Authority therefore imposes on Mr Wills a financial penalty of £19,600.

### **3. DEFINITIONS**

- 3.1. The definitions below are used in this Final Notice.

"2007 Regulations" means the Money Laundering Regulations 2007, which came into force on 15 December 2007.

"ABC" means anti-bribery and corruption.

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

"AML" means anti-money-laundering.

"ARROW" means the Advanced Risk Responsive Operative Framework.

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

"Bank of Beirut" means Bank of Beirut (UK) Ltd.

"FSF" means Firm Systematic Framework.

"PEP" means politically exposed person.

"Remediation Plan" means the risk mitigation programme the Authority provided to Bank of Beirut on 8 March 2011.

"Remediation Plan action points" means the specific actions set out in the Remediation Plan that the Authority required Bank of Beirut to take.

"Skilled Person's Report" means the report dated 10 February 2012 of the Skilled Person whom the Authority required Bank of Beirut to appoint pursuant to s166 of the Act.

## **4. FACTS AND MATTERS**

### **Background**

- 4.1. Mr Wills was employed as Compliance Officer of the Bank of Beirut between 18 July 2011 and 3 December 2012. As Compliance Officer, Mr Wills' responsibilities included:
- (1) establishing, implementing and maintaining adequate policies and procedures for countering the risk that the firm may be used to further financial crime;
  - (2) establishing a compliance monitoring plan; and
  - (3) handling all communication with third parties (including regulatory) in respect of compliance matters.
- 4.2. Bank of Beirut is a UK subsidiary of Bank of Beirut S.A.L., domiciled in Lebanon. Its principal activities are the provision of trade finance, correspondent banking, commercial and retail banking services. Bank of Beirut has fewer than 1000 customers, who are predominantly from countries that are regarded as being high risk from a financial crime perspective. As at 31 December 2011, Bank of Beirut's total assets were £321 million.

### **The Remediation Plan**

- 4.3. In December 2010, the Authority conducted a risk assessment at Bank of Beirut (then known as an ARROW assessment, and now referred to as the FSF). On 8 March 2011, the Authority wrote to Bank of Beirut, setting out its findings from the risk assessment, and attaching a Remediation Plan. This took place before Mr Wills' arrival at the Bank.
- 4.4. The Authority observed that the culture of Bank of Beirut was one of inadequate consideration of risk and regulatory requirements with insufficient focus on governance and controls. The Authority had particular concerns around the Bank's lack of a compliance monitoring plan.
- 4.5. In the Remediation Plan, among six other action points, the Authority set out three action points it expected Bank of Beirut to complete to address its most serious concerns:

- (1) By 1 June 2011, *"to resolve all outstanding issues of internal audit reports and to report to the FSA what actions were taken and to ensure the setting of deadlines for the resolution of all audit issues"*.
- (2) By 1 September 2011, to *"develop, implement and conduct an adequate compliance monitoring program"* and to evidence this with a completion report to the Authority.
- (3) By 1 June 2012, *"to review the implementation of the [Remediation Plan] action points ... in order to provide assurance the improvements are embedded in the firm's processes and have become a matter of course for the firm"*.

#### **The compliance monitoring plan**

- 4.6. The Authority's requirement that Bank of Beirut develop, implement and conduct an adequate compliance monitoring plan by 1 September 2011 was a key measure designed to help ensure the Bank's compliance with its regulatory obligations and to counter the risk that it be used to further financial crime.
- 4.7. Mr Wills was aware of this requirement. As Compliance Officer, he was tasked with establishing the compliance monitoring plan and was the key individual responsible for its development and implementation. On 31 August 2011, Mr Wills submitted to the Authority an initial draft compliance monitoring plan. This compliance monitoring plan was not in final form.
- 4.8. By 1 September 2011 (the deadline for the Authority's action point) Bank of Beirut had failed to develop, implement and conduct an adequate compliance monitoring plan and had failed to provide the Authority with the required completion report. Indeed, as detailed below, Mr Wills had still not developed, implemented and conducted an adequate compliance monitoring plan by September 2012, over a year later.
- 4.9. Bank of Beirut's Board did not adopt the initial compliance monitoring plan (which Mr Wills had provided to the Authority on 31 August 2011) until 30 November 2011. While Mr Wills completed some of the tasks set out in this compliance monitoring plan, he has acknowledged that he only conducted limited monitoring under it. The initial compliance monitoring plan was therefore never fully implemented, and at no point was a monitoring cycle completed.

- 4.10. Subsequently, the Authority required that Bank of Beirut appoint a Skilled Person to confirm whether the issues the Authority had identified had been addressed. In its report dated 10 February 2012, the Skilled Person criticised the adequacy and achievability of this initial compliance monitoring plan and recommended that further development was required. The Skilled Person also noted that a number of sections of the compliance monitoring plan were yet to be developed and that details of the plan had not yet been fully completed. Furthermore, as the compliance monitoring plan was not established, the Skilled Person was unable to assess whether it captured money laundering and bribery and corruption risks.
- 4.11. In June 2012, Bank of Beirut engaged the Skilled Person to revise the compliance monitoring plan and Mr Wills worked with them to develop a new plan. This compliance monitoring plan was approved by the firm's Management Committee on 27 July 2012 and by the Board on 10 September 2012. Mr Wills did not commence any monitoring under the compliance monitoring plan until September 2012, and had not conducted a full monitoring cycle before he left the Bank on 3 December 2012.

#### **Misleading communications to the Authority**

- 4.12. During the Relevant Period, Mr Wills handled almost all of the Bank's communications with the Authority (although others were involved in the drafting, including senior management) in relation to the Remediation Plan action points. Throughout this period, Mr Wills failed to enter into an open and cooperative dialogue with the Authority to inform it of the Bank's failures to complete certain of the Remediation Plan action points as required by the Authority. In particular, Mr Wills failed to inform the Authority about delays in the implementation of the compliance monitoring plan and the lack of compliance monitoring.

*26 June 2012 email*

- 4.13. The Authority did not receive any confirmation from Bank of Beirut that it had reviewed the implementation of the Remediation Plan action points and that the improvements had been embedded in the firm's processes by the 1 June 2012 deadline, as required under the Remediation Plan. On 12 June 2012, the Authority emailed Mr Wills chasing the Bank for a response to this overdue Remediation Plan action point.
- 4.14. On 25 June 2012, in response to an internal email, Mr Wills agreed that two Remediation Plan action points remained outstanding as at that date, including

the requirement to develop, implement and conduct an adequate compliance monitoring plan. In particular, Mr Wills agreed and was aware that:

- (1) the Bank had developed a compliance monitoring plan but that it had not yet been fully implemented; and
- (2) the Skilled Person had identified deficiencies with the compliance monitoring plan which, at this point, had not yet been addressed, although the Skilled Person had been appointed to assist Bank of Beirut in further developing the compliance monitoring plan.

4.15. Mr Wills was also aware that at that time, the Bank had not resolved all outstanding internal audit issues as required by the Remediation Plan.

4.16. Despite this knowledge, following discussions with senior management over the response that the Authority required, Mr Wills sent an email to the Authority the following day confirming: "*...the [Remediation Plan] action points have been implemented and are embedded in the Bank's policies and procedures.*" Mr Wills provided no information to the Authority regarding the outstanding action points.

4.17. This statement was misleading and failed to provide the Authority with information of which it would reasonably expect notice. Mr Wills knew this, because he knew that the action points in relation to the compliance monitoring plan and the outstanding internal audit issues were still not complete.

*30 July 2012 report on implementation of the recommendations in the Skilled Person's Report*

4.18. As set out above, the Authority required Bank of Beirut to appoint a Skilled Person to review its AML and ABC systems and controls and to confirm whether the Authority's concerns had been addressed. The Authority required the firm to submit a report on its implementation of the Skilled Person's recommendations by 31 July 2012.

4.19. The report stated, amongst other things: "*...a more sophisticated Compliance Monitoring program including criteria, methodology and risk assessment has been established and this enhanced program will be implemented by the Compliance department from July.*"

4.20. The report was submitted to the Authority on 30 July 2012 and so gave the impression that he had already begun to implement the more sophisticated compliance monitoring programme or that it would start to be implemented



imminently. This statement was misleading. In fact, at the time of submission, implementation had not begun and was not imminent.

4.21. Mr Wills was involved in the drafting of the report and was specifically given the opportunity to comment upon it on 17 July 2012. Mr Wills did not take that opportunity to correct the misleading statement regarding the compliance monitoring plan and subsequently he submitted the report to the Authority on 30 July 2012.

4.22. As Compliance Officer with responsibility for establishing the compliance monitoring plan, Mr Wills was the best placed individual at the firm to assess the extent of its progress. As at 30 July 2012, Mr Wills did not know when the implementation of the compliance monitoring plan would begin. He therefore knew at the time of submission that the compliance monitoring section of the report was misleading.

*3 August 2012 report on the implementation of the Remediation Plan action points*

4.23. The Authority required Bank of Beirut to provide a further report to address the Bank's implementation of the Remediation Plan action points. Bank of Beirut provided this report to the Authority on 3 August 2012.

4.24. The report stated that all Remediation Plan action points had been fully implemented and embedded within the Firm's systems and controls and had become a matter of course for the Firm. In respect of the Remediation Plan action point "*to develop, implement, and conduct an adequate compliance monitoring program*", the report stated that the compliance monitoring plan had been further developed and assessed. However, the report omitted the information that the implementation of the compliance monitoring plan had not yet begun. It also failed to correct the misleading impression given in Bank of Beirut's earlier report dated 30 July 2012 that implementation would commence "*from July*". This is information of which the Authority would reasonably expect notice.

4.25. On 30 July 2012 Mr Wills received this report in draft form for his comments. On 31 July 2012 Mr Wills provided his comments upon the draft report but he made no amendment to the section relating to the compliance monitoring plan, despite being the best placed individual at Bank of Beirut to comment on the progress of the compliance monitoring plan action point.

*13 August 2012 telephone call with the Authority*

- 4.26. On 13 August 2012, the Authority telephoned Mr Wills to discuss the implementation of the compliance monitoring plan which had been developed with the Skilled Person. Mr Wills summarised the call in an internal email to senior management that same day. He described himself as being "*fairly guarded*" during the telephone call. Mr Wills further stated that "*as regards the compliance monitoring plan [he] said that in the light of the [Skilled Person's] enhancements it had begun to be implemented*". This statement was incorrect. In fact no monitoring pursuant to the compliance monitoring plan had taken place yet.

*Pressure faced by Mr Wills*

- 4.27. Mr Wills has suggested that he was not provided with sufficient resource to conduct his role as Compliance Officer at Bank of Beirut, that at times he felt under pressure from senior management to be "*careful*" in his communications with the Authority and that he was not given "*licence*" to explain issues fully to the Authority. Nonetheless, as Compliance Officer, Mr Wills was under a personal regulatory requirement to be open and cooperative in all of his communications with the Authority.

## **5. FAILINGS**

- 5.1. The regulatory provisions relevant to this Final Notice are referred to in Annex A.
- 5.2. By reason of the facts and matters referred to above, Mr Wills breached Statement of Principle 4 for the following reasons:
- (1) He failed, throughout the Relevant Period, to inform the Authority about the delays in Bank of Beirut's implementation of the compliance monitoring plan and the lack of compliance monitoring. This was information of which the Authority would reasonably expect notice. Mr Wills failed to maintain an open and cooperative dialogue with the Authority in this respect.
  - (2) He knowingly provided misleading information to the Authority, which suggested that Bank of Beirut had completed the actions required by the Authority, when it had not, including:
    - (a) In response to the Authority requesting Bank of Beirut to respond to the overdue Remediation Plan action "*to review the implementation of the [Remediation Plan] action points*", he sent an

email on 26 June 2012 confirming that the Remediation Plan action points had been implemented despite knowing that this was inaccurate.

- (b) Mr Wills submitted a report to the Authority on 30 July 2012 which gave the misleading impression that the compliance monitoring plan (developed with the Skilled Person) had already begun to be implemented or would start to be implemented imminently, despite knowing that this was inaccurate.
- (c) Mr Wills did not take the opportunity to correct this misleading impression when providing comments on a report which was submitted to the Authority on 3 August 2012.
- (d) On 13 August 2012, in a telephone call with the Authority, Mr Wills stated that the compliance monitoring plan (as developed with the Skilled Person) had begun to be implemented even though he knew that it had not.

## **6. SANCTION**

- 6.1. The Authority has considered the disciplinary and other options available to it and has concluded that a financial penalty is the appropriate sanction in the circumstances of this particular case.

### **Financial Penalty**

- 6.2. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. For this period the Authority has applied a five-step framework, as set out in DEPP 6.5B, to determine the appropriate level of financial penalty imposed on individuals in non-market abuse cases.

### **Step 1: disgorgement**

- 6.3. Pursuant to DEPP 6.5B.1G, at Step 1 the Authority seeks to deprive an individual of the financial benefit derived directly from the breach where it is practicable to quantify this.
- 6.4. The Authority has not identified any financial benefit that Mr Wills derived directly from the breach.
- 6.5. Step 1 is therefore £0.

## **Step 2: the seriousness of the breach**

6.6. Pursuant to DEPP 6.5B.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. That figure is based on a percentage of the individual's relevant income. The individual's relevant income is the gross amount of all benefits received by the individual from the employment in connection with which the breach occurred.

6.7. Mr Wills' breach occurred between 1 September 2011 and 3 December 2012. Mr Wills' relevant income in this period was £103,884.

6.8. In deciding on the percentage of the relevant income that forms the basis of the Step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 40%. The range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on individuals in non-market abuse cases there are the following five levels:

Level 1 – 0%

Level 2 – 10%

Level 3 – 20%

Level 4 – 30%

Level 5 – 40%

6.9. A non-exhaustive list of factors which are likely to be considered level 4 factors or level 5 factors is set out at DEPP 6.5B.2G(12). In the circumstances of this case, the Authority considers the following factor to be relevant:

(1) The breach was committed recklessly: Mr Wills appreciated that there was a risk that the assurance he provided to the Authority on 26 June 2012 that all Remediation Plan action points had been implemented consisted of a failure to be open with the Authority and that it would not be aware of relevant matters. He also appreciated that the impression given in the July and August reports regarding the progress of the compliance monitoring plan and the comments he made to the Authority on 13 August 2012 regarding the compliance monitoring plan, could result in the Authority not being in receipt of full information. Mr Wills failed adequately to mitigate that risk.

6.10. The Authority also considers that the following factors are relevant:

- (1) The scope for any potential financial crime to be facilitated, occasioned or otherwise occur as a result of the breach: Mr Wills' failure to provide the Authority with accurate information regarding the status of the Remediation Plan action points might have left the firm exposed to the risk of being used to further financial crime.
- (2) The nature of the breach: The Authority relied on its communications with Mr Wills, as Compliance Officer, to gain assurance and confirmation that the Bank had completed the Authority's required action points.
- (3) The frequency of the breach: Mr Wills provided misleading information in relation to the Remediation Plan to be submitted to the Authority on four separate occasions during the Relevant Period.

6.11. Taking all these factors into account, the Authority has concluded the seriousness of the breach to be Level 4. Therefore, the Step 2 figure is 30% of £103,884.

6.12. Step 2 is therefore £31,165.

### **Step 3: mitigating and aggravating factors**

6.13. Pursuant to DEPP 6.5B.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.

6.14. The Authority considers that the following factor mitigates the breach:

- (1) Mr Wills approached the Authority to request an exit interview shortly before he left Bank of Beirut. This took place on 12 December 2012. At that interview, Mr Wills volunteered information to the Authority which relates to the Authority's findings set out in this Notice.

6.15. The Authority does not consider there to be any factors which aggravate the breach.

6.16. Having taken into account the mitigating factor identified above, the Authority considers that the Step 2 figure should be decreased by 10%.

6.17. Step 3 is therefore £28,049.

#### **Step 4: adjustment for deterrence**

- 6.18. Pursuant to DEPP 6.5B.4G, if the Authority considers that the figure arrived at after Step 3 is insufficient to deter the individual who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.
- 6.19. The Authority considers that the Step 3 figure of £28,049 represents a sufficient deterrent to Mr Wills and others, and so has not increased the penalty at Step 4.
- 6.20. The Step 4 figure is therefore £28,049.

#### **Step 5: settlement discount**

- 6.21. Pursuant to DEPP 6.5B.5G, if the Authority and the individual on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the individual reached agreement.
- 6.22. The Authority and Mr Wills reached agreement at Stage 1, therefore a 30% discount applies to the Step 4 figure (of £28,049).
- 6.23. Step 5 is therefore £19,600 rounded down to the nearest £100.

#### **Penalty**

- 6.24. The Authority therefore imposes a total financial penalty of £19,600 on Mr Wills for breaching Statement of Principle 4.

### **7. PROCEDURAL MATTERS**

#### **Decision maker**

- 7.1. The decision which gave rise to the obligation to give this 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 Mr Wills to the Authority by no later than 18 March 2015, 14 days from the date of the Final Notice.

### **If the financial penalty is not paid**

- 7.4. If all or any of the financial penalty is outstanding on 19 March 2015, the Authority may recover the outstanding amount as a debt owed by Mr Wills and due to the Authority.

### **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 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 you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
- 7.6. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

### **Authority contacts**

- 7.7. For more information concerning this matter generally, contact Allegra Bell (direct line: 020 7066 8110) or Matthew Finn (direct line: 020 7066 1276) of the Enforcement and Market Oversight Division of the Authority.

Anthony Monaghan

Project Sponsor

Financial Conduct Authority, Enforcement and Market Oversight Division

## ANNEX A

### RELEVANT STATUTORY AND REGULATORY PROVISIONS

#### 1 RELEVANT STATUTORY PROVISIONS

- 1.1 The Authority's statutory objectives, set out in section 1B(3) of the Act, include the integrity objective.
- 1.2 Section 1D of the Act is the integrity objective: "protecting and enhancing the integrity of the UK financial system."
- 1.3 Section 66 of the Act provides that the Authority may take action against a person if it appears to the Authority that he is guilty of misconduct and the Authority is satisfied that it is appropriate in all the circumstances to take action against him. A person is guilty of misconduct if, while an approved person, he has failed to comply with a statement of principle issued under section 64 of the Act, or has been knowingly concerned in a contravention by a relevant authorised person of a relevant requirement imposed on that authorised person.

#### 2 RELEVANT REGULATORY PROVISIONS

##### *Statements of Principle and Code of Practice for Approved Persons*

- 2.1 The Authority's Statements of Principle and Code of Practice for Approved Persons ("APER") have been issued under section 64 of the Act.
- 2.2 Statement of Principle 4 states:
- 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.
- 2.3 The Code of Practice for Approved Persons sets out descriptions of conduct which, in the opinion of the Authority, do not comply with a Statement of Principle. It also sets out factors which, in the Authority's opinion, are to be taken into account in determining whether an approved person's conduct complies with a Statement of Principle.

##### *Financial penalty*

- 2.4 The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In respect of conduct occurring on or after 6 March 2010, the Authority



applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5B sets out the details of the five-step framework that applies in respect of financial penalties imposed on individuals in non-market abuse cases.