
FINAL NOTICE

To: David Lloyd Wren
IRN: DLW01057
Date of Birth: 9 March 1947
Dated: 31 March 2014

ACTION

1. For the reasons listed below, the Authority hereby:
 - (a) withdraws the approval granted to Mr Wren to perform the controlled functions of CF1 (Director) and CF3 (Chief Executive) in relation to Astbury Wren, pursuant to section 63 of the Act;
 - (b) imposes on Mr Wren, pursuant to section 66 of the Act, a financial penalty of £70,000; and
 - (c) makes an order against Mr Wren, pursuant to section 56 of the Act, prohibiting Mr Wren from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.
2. Mr Wren agreed to settle at an early stage of the Authority's investigation. Mr Wren 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 a financial penalty of £100,000 on Mr Wren.

SUMMARY OF REASONS

3. On the basis of the facts and matters described below, the Authority has concluded that Mr Wren poses a serious risk to consumers and to confidence in the financial system.
4. During the Relevant Period, Mr Wren contravened Statement of Principle 1 of the Authority's Statements of Principle by failing to act with integrity by deliberately causing Astbury Wren to retain insurance premiums paid by Astbury Wren's clients to Astbury Wren for insurance, for its own use.
5. The Authority has concluded that Mr Wren fails to meet the criteria for fitness and propriety set out in FIT and that Mr Wren is not fit and proper to be an approved person.

DEFINITIONS

6. The following definitions are also used in this Warning Notice:
 - "the Act" means the Financial Services and Markets Act 2000;
 - "Astbury Wren" means Astbury Wren & Company Limited (In Liquidation);
 - "the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;
 - "AWH" means Astbury Wren & Company (Holdings) Limited;
 - "DEPP" means the Decision Procedure and Penalties Manual;
 - "EG" means the Enforcement Guide;
 - "FIT" means the Fit and Proper Test for Approved Persons section of the Handbook;
 - "the Handbook" means the Authority's Handbook of rules and guidance;
 - "Mr Wren" means David Lloyd Wren;
 - "the Relevant Period" means 1 March 2009 to 20 February 2012;
 - "the Trust Accounts" means the statutory and non-statutory trust bank accounts which were operated by Astbury Wren;
 - "the Statements of Principle" means the Statements of Principle and Code of Practice for Approved Persons ("APER") in the Handbook; and
 - "the Upper Tribunal" means the Upper Tribunal (Tax and Chancery Chamber).

FACTS AND MATTERS

Background

7. On 14 January 2005, Astbury Wren was authorised by the Authority to conduct insurance mediation activities and Mr Wren was approved to perform the CF1 (Director), CF3 (Chief Executive) and CF8 (Apportionment and Oversight) controlled functions at Astbury Wren. He was also approved as the individual

responsible for insurance mediation. Astbury Wren is the wholly owned subsidiary of AWH, of which Mr Wren owns 78%.

8. On 31 March 2009, Mr Wren's approval to perform the CF8 (Apportionment and Oversight) controlled function was withdrawn. He continues to hold the CF1 and CF3 functions.
9. Astbury Wren ceased trading on 20 February 2012 when it entered administration.

Insurer debts

10. On entering administration, Astbury Wren owed £1,408,890 to insurers in relation to net outstanding insurance premiums for policies arranged with those insurers. Most of those insurance policies had been arranged by Astbury Wren under risk transfer agreements. However, out of the £1,408,890 owed to insurers, there were three customers who were not subject to risk transfer agreements who were asked to repay a total of £9,021 (or face cancellation of their policies).
11. Also on 20 February 2012, Astbury Wren's client base and insurance book were sold to Firm A. The gross proceeds of sale were £195,548.
12. On 8 February 2013, Astbury Wren moved into creditors' voluntary liquidation.

Misappropriation of insurance premiums

13. During the Relevant Period, Astbury Wren received £10,726,918 of client premiums into the Trust Accounts. Astbury Wren earned £2,081,022 in commission on those premiums received. During the Relevant Period, Astbury Wren transferred £2,711,931 from the Trust Accounts to Astbury Wren's office account. Astbury Wren therefore transferred £630,909 more than it was entitled to transfer as commission to its own account. The money transferred was used to pay the business expenses of Astbury Wren.
14. Mr Wren approved transfers made from the Trust Accounts to the office account. He knew the amount of money transferred was not calculated based on the amount of commission earned, but was instead transferred as required to fund Astbury Wren's business expenses and to reduce Astbury Wren's office account overdraft.

Mr Wren's conduct

15. Mr Wren explained that Astbury Wren's process for deciding how much it was owed in commission was that "*it was calculated automatically on the system. So each client would have the premium divided between the net premium and the commission*". Mr Wren explained that the usual process for calculating commission earned was that an administrator at Astbury Wren would use a computer system to do so. Mr Wren's approval would then be sought before any transfer was effected.
16. Mr Wren stated that there were occasions when neither the administrator nor Mr Wren would check that the amount of money which was being transferred from the Trust Accounts to the office account, was the same as the amount Astbury Wren was entitled to take as commission. Mr Wren stated that there were also occasions when he would grant approval to the administrator to transfer more than Astbury Wren was entitled to take as commission, from the Trust Accounts to the office account, in order to fund Astbury Wren's business expenses and to decrease Astbury Wren's overdraft.

FAILINGS

17. The statutory and regulatory provisions relevant to this Notice are set out in the Annex.

Failing to act with integrity in carrying out significant influence functions: Statement of Principle 1

18. Mr Wren, as a director of Astbury Wren, failed to act with integrity in carrying out significant influence functions as an approved person (CF1 Director and CF3 Chief Executive), in that Mr Wren was knowingly involved in the misappropriation of insurance premiums paid by clients to Astbury Wren, for Astbury Wren's use, totalling £630,909.
19. The authorisation of transfers of money from the Trust Accounts to the office account was solely Mr Wren's responsibility. Mr Wren failed to ensure that only money which was owed to Astbury Wren as commission was transferred from the Trust Accounts to the office account. Instead, he knew that money from the Trust Accounts, to which Astbury Wren was not entitled and which belonged to customers was being transferred to the office account to fund Astbury Wren's business expenses and to decrease Astbury Wren's overdraft.

SANCTIONS

Financial penalty

20. Given Mr Wren's breach of Statement of Principle 1, the Authority hereby imposes a financial penalty on him pursuant to section 66 of the Act. The Authority's policy on the imposition of a financial penalty is set out in Chapter 6 of DEPP. On 6 March 2010, the Authority adopted a new penalty setting regime.
21. Enforcement has also had regard to the corresponding provisions of Chapter 7 of EG and Chapter 13 of the Enforcement Manual which were in force during this Relevant Period.
22. The Relevant Period is 1 March 2009 to 20 February 2012 and therefore both the old and the new penalty regimes apply.

New regime element (period from 6 March 2010 to 20 February 2012)

23. The financial penalty is determined by a five-step framework, set out in DEPP, having regard to all the circumstances of the case. The penalty therefore consists of:

Step 1 – disgorgement

24. 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.
25. Mr Wren has received no direct financial benefit from his breaches and so the Step 1 figure is nil.

Step 2 – the seriousness of the breach

26. 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 from the employment in connection with which the breach occurred, and for the period of the breach.

27. Mr Wren's relevant income for the portion of the Relevant Period to which the new penalty regime applies (i.e. 6 March 2010 to 20 February 2012) was £209,358.
28. In deciding on the percentage of 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%. This 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 there are the following five levels:
 - Level 1 – 0%
 - Level 2 – 10%
 - Level 3 – 20%
 - Level 4 – 30%
 - Level 5 – 40%
29. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly.
30. DEPP 6.5B.2(12) lists factors likely to be considered 'level 4 or 5 factors'. Of these, the Authority considers the following factors to be relevant:
 - (a) the breach caused a significant loss or risk of loss to individual consumers, investors or other market users;
 - (b) financial crime was facilitated, occasioned or otherwise attributable to the breach;
 - (c) the individual failed to act with integrity;
 - (d) the individual abused a position of trust; and
 - (e) the breach was committed deliberately or recklessly.
31. Applying the relevant factors in paragraph 30 above to Mr Wren's failings, the Authority considers those failings to be at Level 5 for the purposes of Step 2 because:
 - (a) on entering administration, Astbury Wren owed £1,408,890 to insurers in relation to net outstanding insurance premiums for policies arranged with those insurers. Most of those insurance policies had been arranged by Astbury Wren under risk transfer agreements. However, out of the £1,408,890 owed to insurers, there were three customers who were not subject to risk transfer agreements who were asked to repay a total of £9,021 (or face cancellation of their policies). The insurance creditors will only receive 62p in the £1 (plus 1.3p in the £1 from the non-trust assets), as part of the liquidation;

- (b) Mr Wren failed to act with honesty and integrity throughout the Relevant Period; and
 - (c) Mr Wren's misconduct was deliberate. He knew that his actions were dishonest and he repeated his actions throughout the Relevant Period. Mr Wren also intended or foresaw that the consequences of his actions would result in a breach. He also intended to indirectly benefit financially from the breach as the premiums were transferred to Astbury Wren's office account to decrease Astbury Wren's overdraft. This ensured that Astbury Wren continued to remain trading for longer than it may otherwise have done and Mr Wren could continue to derive an income from the firm.
32. Taking all of these factors into account, the Authority considers the seriousness of the failings to be Level 5 and so the Step 2 figure is 40% of £209,358. The penalty figure after Step 2 is therefore £83,743.

Step 3 – mitigating and aggravating factors

33. 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 in accordance with Step 1, to take into account factors which aggravate or mitigate the breach.
34. The Authority considers there to be no mitigating or aggravating circumstances. The penalty figure after Step 3 is therefore £83,743.

Step 4 – adjustment for deterrence

35. Pursuant to DEPP 6.5B.4G, if the Authority considers 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.
36. The Authority considers that the penalty is sufficient for the purposes of credible deterrence. The penalty figure at Step 4 is therefore £83,743.

Serious financial hardship

37. Pursuant to DEPP 6.5D.2G, the Authority may reduce the proposed penalty if appropriate, if the penalty would cause the individual serious financial hardship.
38. Mr Wren's annual income is £9,536, which is below the minimum income level of £14,000 per annum (as set out in DEPP 6.5D.2G(1)). He has capital assets of £23,405, which would fall below the £16,000 capital threshold following the imposition of any penalty.
39. Mr Wren did not directly benefit from the breach, however, his misconduct enabled Astbury Wren to continue trading for longer than would otherwise have been possible which, in turn, provided Mr Wren with an income. His misconduct caused significant risk of loss to consumers and significant loss to insurers and as Mr Wren's misconduct is considered to be at level 5 on the scale of seriousness, Enforcement considers that the breach is so serious that the penalty should not be reduced for financial hardship reasons.
40. The Step 4 figure therefore remains at £83,743.

Step 5 – settlement discount

41. 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.

The Authority and Mr Wren have reached an agreement at Stage 1. As a result a 30% reduction applies to the financial penalty. The penalty figure at Stage 5 is therefore £58,620.

Old Regime Element (period from 1 March 2009 – 5 March 2010)

42. DEPP 6.5.2G (as it then applied) sets out the factors which may be relevant to determining the appropriate level of financial penalty to be imposed.

Deterrence (DEPP 6.5.2G(1))

43. The Authority considers that a financial penalty should be imposed to demonstrate to Mr Wren and others the seriousness with which the Authority regards his behaviour.

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

44. Mr Wren acted dishonestly repeatedly during the one year period covered by the old regime. Ultimately the loss to Astbury Wren's insurer creditors totalled £1,408,890 and a high level of risk to consumers arose as a result of the breach. It is not possible to indicate the precise loss to insurer creditors that arose solely during the period covered by the old regime, but by way of rough apportionment across the entire Relevant Period the loss equates to approximately £470,000.

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

45. Mr Wren deliberately committed the breaches. He knowingly approved the transfer of funds from the Trust Accounts to the office account without following the firm's internal procedure for the transfer of commission amounts to the office account for the purposes of funding Astbury Wren's business expenses and decreasing its overdraft. There were occasions on which neither he nor staff requesting his approval for the transfers checked that the amount of money which was being transferred from the Trust Accounts to the office account was the same as and / or did not exceed the amount Astbury Wren was entitled to take as commission. There were also occasions on which Mr Wren knowingly granted approval to his staff to transfer more than Astbury Wren was entitled to take in commission, from the Trust Accounts to the office account.

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

46. The Authority has taken into account in determining the amount of penalty to be imposed that Mr Wren is an individual and that enforcement action may have a greater impact on him than it would on a firm.
47. The Authority has also taken into account the fact that Mr Wren was recently discharged from bankruptcy (on 18 February 2014), however, the Authority considered that the seriousness of Mr Wren's misconduct warrants the imposition of a financial penalty.

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

48. In determining the level of financial penalty, the Authority has taken into account penalties imposed by the Authority for similar behaviour. This was considered alongside the deterrent purpose for which the Authority imposes sanctions. The precedent cases that have been considered include penalties which were made up of an amount to be disgorged and a punitive amount. However, as there is no disgorgement from Mr Wren, the Authority has also considered the comparator cases of mortgage fraud that were considered under the old penalty regime in which a punitive penalty of £100,000 was imposed. A punitive penalty of £100,000 would have been imposed on Mr Wren if the entire Relevant Period had been prior to 1 March 2009 (and therefore entirely under the old penalty regime), however, the Authority has considered whether the £100,000 penalty should be apportioned in this case to take account of the fact that a penalty is also being imposed in respect of misconduct that occurred under the new regime.

Conclusion on financial penalty under the old penalty setting regime

49. If the entire Relevant Period had fallen prior to 1 March 2009 (and therefore entirely under the old penalty regime), a punitive penalty of £100,000 would have been imposed on Mr Wren. Although one year of the Relevant Period falls within the old regime and two years fall under the new penalty regime, the Authority considers that an overall penalty of £100,000 is appropriate in all the circumstances. As the element of the penalty calculated under the new regime totals £83,743 (before Stage 1 settlement), and having due regard to the £100,000 penalties imposed in comparator mortgage fraud cases, the Authority considers that the total penalty to be imposed under the old regime should therefore be £16,257 (£100,000 - £83,743). After Stage 1 settlement, that amount is reduced to £11,380.

Financial penalty

50. The Authority considers the appropriate level of financial penalty to be £70,000 (rounded down, and following the Stage 1 settlement discount) for breaching Statement of Principle 1.

Withdrawal of approval and prohibition

51. The Authority considers that Mr Wren is not a fit and proper person as he lacks integrity, and therefore considers it appropriate to withdraw Mr Wren's approval to perform the controlled functions of CF1 and CF3 in relation to Astbury Wren.
52. The Authority considers that Mr Wren is not a fit and proper person as he lacks integrity, and therefore poses a serious risk to consumers and to confidence in the financial system. The Authority therefore considers it appropriate to prohibit Mr Wren from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

PROCEDURAL MATTERS

Decision Maker

53. The decision which gave rise to the obligation to give this Final Notice was made by the Settlement Decision Makers.
54. This Final Notice is given to Mr Wren in accordance with section 390 of the Act.

Manner of and time for Payment

55. The financial penalty must be paid by Mr Wren to the Authority by no later than than 14 April 2014, 14 days from the date of this Final Notice.

If the financial penalty is not paid

56. If all or any of the financial penalty is outstanding on 15 April 2014, the Authority may recover the outstanding amount as a debt owed by Mr Wren and due to the Authority.

Publicity

57. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Final Notice relates. Under those provisions, the Authority must publish such information about the matter to which this Final 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 Wren or prejudicial to the interests of consumers.
58. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority Contact

59. For more information concerning this matter contact Stephanie Prowse at the Authority (direct line: 0207 066 9404 / fax: 0207 066 9405).

Bill Sillett
Enforcement and Financial Crime Division

ANNEX

RELEVANT STATUTORY PROVISIONS

1. Section 1A(1) of the Act states that the body corporate previously known as the Financial Services Authority is renamed as the Financial Conduct Authority. The Authority's operational objectives established in section 1(B) of the Act include protecting and enhancing the integrity of the UK financial system and the protection of consumers.
2. The Authority 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 Authority 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.
3. The Authority has the power, pursuant to Section 63 of the Act, to withdraw an approval given under section 59 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.
4. 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. 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 Authority pursuant to section 66 of the Act includes the imposition of a penalty on the approved person of such amount as it considers appropriate.

RELEVANT HANDBOOK PROVISIONS

Fit and Proper Test for Approved Persons (FIT)

5. The section of the Authority's 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.
6. FIT 1.3.1G provides that the Authority 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.
7. FIT 2.1.1G provides that in determining a person's honesty and integrity, the Authority will have regard to all relevant matters.

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

8. APER sets out the fundamental obligations of approved persons and sets out descriptions of conduct, which, in the opinion of the Authority, do 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.
9. APER 2.1.2P sets out Statement of Principle 1 which, at the relevant time, stated that an approved person must act with integrity in carrying out his controlled function.

10. 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.
11. 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.
12. APER 4.1 sets out examples of behaviour which the Authority considers does not comply with Statement of Principle 1. Examples of such conduct are:
 - (a) deliberately misusing the assets of a client or his firm (APER 4.1.10E), including using a client's funds for purposes other than those for which they were provided (APER 4.1.11E(5)) and retaining a client's funds wrongly (APER 4.1.11E(6));
 - (b) deliberately not paying due regard to the interests of a customer (APER 4.1.14E); and
 - (c) deliberate acts, omissions or business practices that could be reasonably expected to cause consumer detriment (APER 4.1.15E).

OTHER RELEVANT REGULATORY PROVISIONS

The Authority's policy on the imposition of financial penalties

13. The Authority's policy in relation to the imposition of financial penalties is set out in Chapter 6 of DEPP. The sections cited below applied before and after 6 March 2010.
14. 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.
15. The Authority will consider the full circumstances of each case when determining whether or not to impose a financial penalty. DEPP 6.2.1G sets out guidance on a non-exhaustive list of factors that may be of relevance in determining *whether* to impose a financial penalty, which include the following:-
 - (a) 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.
 - (b) 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 Authority, the degree of co-operation the person showed during the investigation of the breach, and the nature and extent of any false or inaccurate information given by the person and whether the information appears to have been given in an attempt to knowingly mislead the Authority.

- (c) DEPP 6.2.1G(5): Action taken by the Authority in previous similar cases.

DEPP as applied before 6 March 2010

16. DEPP 6.5.1G(1) provides that the Authority 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.
17. DEPP 6.5.2G sets out guidance on a list of factors that may be relevant to determining the appropriate level of financial penalty to be imposed on a person, which include the following:-
- (a) DEPP 6.5.2G(1): The principal purpose for which the Authority imposes sanctions, which is namely to promote high standards or 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.
 - (b) DEPP 6.5.2G(2): The seriousness of the breach in relation to the nature of the rule, requirement or provision breached, which includes taking a number of considerations into account. Some which may be relevant include the duration and frequency of the breach and the loss or risk of loss caused to consumers, investors or other market users.
 - (c) DEPP 6.5.2G(3): The extent to which the breach was deliberate or reckless.
 - (d) DEPP 6.5.2G(4): Whether the person on whom the penalty is to be imposed is an individual.
 - (e) DEPP 6.5.2G(5): The size, financial resources and other circumstances of the person on whom the penalty is to be imposed.
 - (f) DEPP 6.5.2G(10): Action that the FSA has taken in relation to similar breaches by other persons may be taken into account.

DEPP as applied on and after 6 March 2010

18. DEPP 6.5B sets out the five steps for calculation of financial penalties to be imposed on individuals in non-market abuse cases.
19. DEPP 6.5D sets out the Authority's approach to serious financial hardship.
20. DEPP 6.5D.1 states that the Authority may consider whether a reduction in the proposed penalty is appropriate if the penalty would cause the subject of the enforcement action serious financial hardship.
21. DEPP 6.5D.1(2)(a) sets out that the Authority will only consider a reduction if the individual provides verifiable evidence that payment of the penalty will cause them serious financial hardship.
22. DEPP 6.5D.2(1) states that the Authority would consider an individual's ability to pay the penalty over a reasonable period. The Authority's starting point is that an individual will suffer serious financial hardship only if during that period his net annual income will fall below £14,000 and his capital will fall below £16,000 as a result of payment of the penalty.

The Authority's policy for exercising its power to withdraw approval and to make prohibition orders

23. EG 9.1 provides that the Authority's power under section 56 of the Act to prohibit individuals who are not fit and proper from carrying out functions in relation to regulated activities helps the Authority to work towards achieving its statutory objectives. The Authority 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.
24. EG 9.2 provides that the Authority's effective use of the power under section 63 of the Act to withdraw approval from an approved person will help 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 Authority may prohibit an approved person, in addition to withdrawing their approval.
25. 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.
26. 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.
27. EG 9.8 provides that when the Authority has concerns about the fitness and propriety of an approved person, it may consider whether it should prohibit that person from performing functions in relation to regulated activities, withdraw its approval, or both.
28. When considering whether to exercise its power to make a prohibition order against an approved person and/or withdraw its approval, the Authority will consider all the relevant circumstances of the case. These may include, but are not limited to, where appropriate the factors set out in EG 9.9.
29. EG 9.9 states that, when deciding whether to make a prohibition order against an approved person, the Authority 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.
- 30. EG 9.23 provides that in appropriate cases the Authority may take other action against an individual in addition to making a prohibition order including the use of its power to impose a financial penalty.