
FINAL NOTICE

To: Guillaume Adolph
Date of Birth: 8 August 1978
FCA Reference Number: GCA01016
Date: 15 February 2018

ACTION

1. For the reasons given in this Final Notice, the Authority hereby:
 - (1) imposes on Guillaume Adolph a financial penalty of £180,000 pursuant to section 66 of the Act; and
 - (2) makes an order, pursuant to section 56 of the Act, prohibiting Mr Adolph from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm. This order takes effect from the date of this Notice.

SUMMARY OF REASONS

2. The Authority has decided to take this action because during the period from 25 July 2008 to 11 March 2010 Mr Adolph was knowingly concerned in a contravention of Principle 5 by Deutsche in relation to LIBOR.
3. Mr Adolph agreed to settle prior to the giving of a decision notice. He therefore qualified for a 10% (stage 3) discount under the Authority's executive settlement procedures that applied at the relevant time. Were it not for this discount, the Authority would have imposed a penalty of £200,000 on Mr Adolph.

London Interbank Offered Rate

4. LIBOR is a benchmark reference rate fundamental to the operation of both UK and international financial markets. Its integrity is of fundamental importance to confidence in the financial system.
5. LIBOR is published daily in a number of currencies and maturities. It is based on the cost of borrowing in the interbank market and Panel Banks make daily submissions to an external administrator to enable LIBOR to be calculated. Until 31 January 2014, LIBOR was administered by the BBA and was set according to a definition published by the BBA.¹
6. At Deutsche, like other Panel Banks, Submitters are responsible for determining and making LIBOR submissions. Submitters are at the very heart of the LIBOR setting process. They are the link between the Panel Banks and the daily published LIBOR rates. Accordingly, it is essential for the integrity of LIBOR that Submitters act properly in their role. Mr Adolph made JPY LIBOR submissions on behalf of Deutsche from July 2008 to November 2009.

Deutsche's Final Notice

7. On 23 April 2015, the Authority gave Deutsche a Final Notice and imposed on Deutsche a financial penalty of £226.8 million, in respect of significant failings in relation to the interbank interest rate benchmark setting process. These included breaches in relation to LIBOR (involving various staff of Deutsche) of Principle 5, which provides that a firm must observe proper standards of market conduct.

Mr Adolph's misconduct in relation to LIBOR submissions

8. Mr Adolph acted improperly and was knowingly concerned in Deutsche's breach of Principle 5 in the following ways:
 - (1) he made requests to Deutsche's CHF LIBOR Submitters, in an attempt to influence their LIBOR submissions
 - (2) he took into account Trading Positions for which he was responsible when making JPY LIBOR submissions, and
 - (3) he improperly agreed with External Trader B at another Panel Bank to make JPY LIBOR submissions which took into account requests made by External Trader B.
9. Mr Adolph knew that the definition of LIBOR required submissions from Panel Banks based on their cost of borrowing in the interbank market. He knew that Trading Positions were not a relevant factor under the definition.
10. Mr Adolph was motivated by profit when making requests to Deutsche's CHF LIBOR Submitters and when making JPY submissions which took his own Trading Positions into account. He also knew that in making requests to him, External Trader B was motivated by profit and seeking to benefit External Trader B's Trading Positions.

¹ Since 1 February 2014, LIBOR has been administered by ICE Benchmark Administration Limited ("IBA"): www.theice.com/iba

11. Mr Adolph deliberately closed his mind to the risk that taking Trading Positions into account was contrary to proper standards of market conduct. In doing so, he acted recklessly, and therefore with a lack of integrity.

Sanction

12. The UK and international financial system relies on the integrity of benchmark reference rates such as LIBOR. Mr Adolph's misconduct as a CHF Trader and JPY Submitter threatened confidence in the integrity of the UK financial system and could have caused significant harm to other market participants.
13. Mr Adolph was an approved person. Approved persons must act with integrity. However, during the Relevant Period Mr Adolph made requests to Deutsche's CHF LIBOR Submitters in an attempt to influence their LIBOR submissions; took into account Trading Positions for which he was responsible when making JPY LIBOR submissions; and improperly agreed with External Trader B to make JPY LIBOR submissions which took into account requests made by External Trader B. In doing so, Mr Adolph acted without integrity.
14. In light of the seriousness of the matters set out in this Notice, Mr Adolph's misconduct warrants the imposition of a significant penalty. The Authority has taken into account all the relevant circumstances, which include: the sanctions imposed by the Authority in analogous LIBOR notices; the duration and frequency of Mr Adolph's misconduct, and his improper agreement with External Trader B. The Authority's detailed consideration of the appropriate level of penalty is set out at paragraphs 79 to 89 below. The Authority therefore considers it appropriate to impose a financial penalty of £180,000.
15. In addition, as a result of his lack of integrity, the Authority considers that Mr Adolph is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm and, as such, should be prohibited from doing so.

DEFINITIONS

16. The definitions below are used in this Notice:
 - "Act" means the Financial Services and Markets Act 2000;
 - "Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;
 - "BBA" means the British Bankers' Association;
 - "CHF" means Swiss Francs;
 - "CHF LIBOR" means the London Interbank Offered Rate for Swiss Francs;
 - "DEPP" means the Authority's Decision Procedure and Penalties Manual;
 - "Deutsche" means Deutsche Bank AG;

"Deutsche Final Notice" means the Final Notice issued to Deutsche by the Authority on 23 April 2015;

"EG" means the Authority's Enforcement Guide;

"FIT" means the Authority's Fit and Proper test for Approved Persons;

"JPY" means Japanese Yen;

"JPY LIBOR" means the London Interbank Offered Rate for Japanese Yen;

"LIBOR" means the London Interbank Offered Rate;

"Panel Bank" means a bank with a place on the BBA panel for contributing LIBOR submissions in one or more currencies;

"Principle 5" means Principle 5 of the Authority's Principles for Businesses;

"Relevant Period" means the period 25 July 2008 to 11 March 2010;

"Submitter" means those responsible for determining and making LIBOR submissions on behalf of a Panel Bank;

"Trader" means a person trading interest rate derivatives or trading in the money markets;

"External Trader B" means a Trader previously employed by UBS;

"Trading Positions" means trading book positions held either in respect of derivative positions or money market positions;

"Tribunal" means the Upper Tribunal (Tax and Chancery Chamber);

"UBS" means UBS AG.

FACTS AND MATTERS

Background

LIBOR and interest rate derivatives contracts

17. LIBOR is the most frequently used benchmark for interest rates globally, referenced in transactions with a notional outstanding value of at least USD 500 trillion. During the Relevant Period, LIBOR was published for 10 currencies and 15 maturities.
18. Interest rate derivatives contracts typically contain payment terms that refer to benchmark rates. LIBOR is by far the most prevalent benchmark rate used in over-the-counter interest rate derivatives contracts and exchange traded interest rate contracts.
19. During the Relevant Period, LIBOR was published on behalf of the BBA. LIBOR (in each relevant currency), was, and continues to be, set by reference to the assessment of the interbank market made by a number

of Panel Banks. Each Panel Bank contributes rate submissions each business day.

20. These submissions are not averages of the relevant Panel Banks' transacted rates on a given day. Panel Banks are required to exercise their subjective judgement in evaluating the rates at which money may be available in the interbank market when determining their submissions.
21. During the Relevant Period, the LIBOR definition published by the BBA and available to participants in the UK and international financial markets was as follows:

"The rate at which an individual contributor panel bank could borrow funds, were it to do so by asking for and then accepting interbank offers in reasonable market size just prior to 11:00 London time".
22. The definition of LIBOR required submissions related to funding from the Panel Banks. It did not allow for consideration of factors such as Trading Positions.
23. Until February 2011 the JPY LIBOR panel consisted of 16 banks, including Deutsche, and the rate calculation for each maturity excluded the highest four and lowest four submissions. An average of the remaining eight submissions (known as the interquartile range) was taken to produce the final benchmark rate. The CHF LIBOR panel consisted of 12 banks, including Deutsche, and the rate calculation for each maturity excluded the highest three and lowest three submissions. The interquartile range was taken to produce the final benchmark rate.
24. During the Relevant Period, Deutsche delegated responsibility for determining and making LIBOR submissions to Submitters on its money markets desk.

Deutsche's Final Notice

25. Deutsche breached Principle 5 through misconduct relating to its submission of rates which formed part of the LIBOR setting processes.
26. Principle 5 states that a firm must observe proper standards of market conduct.
27. The Deutsche Final Notice sets out that Deutsche breached Principle 5 in, inter alia, the following ways:
 - (1) manipulation of Deutsche's own submissions that formed part of the calculation of the published CHF LIBOR rate;
 - (2) manipulation of Deutsche's own submissions that formed part of the calculation of the published JPY LIBOR rate, and
 - (3) an improper agreement with External Trader B at another Panel Bank.

Mr Adolph's role at Deutsche

28. Mr Adolph was employed by Deutsche between 1 July 2008 and 22 December 2011, as a short-term interest rate derivatives trader. He traded derivative products referenced to CHF and JPY LIBOR. During his

period of employment at Deutsche, Mr Adolph was approved to perform the CF30 "Customer" controlled function.

29. From July 2008 until November 2009, Mr Adolph acted as the primary JPY LIBOR Submitter for Deutsche.
30. Mr Adolph had extensive experience of the money markets having commenced his career as a derivatives trader in 2003.
31. During the Relevant Period, Mr Adolph understood that the BBA definition of LIBOR was based on a Panel Bank's assessment of actual rates in the interbank lending market. He knew that Trading Positions were not a relevant factor under the definition. He deliberately closed his mind to the risk that for a Submitter to take them into account when making JPY or CHF LIBOR submissions (or for a Trader to request a Submitter to do so) was contrary to proper standards of market conduct.

Requests made by Mr Adolph to Deutsche's CHF LIBOR Submitters

32. During the Relevant Period, Mr Adolph made requests to Deutsche's CHF LIBOR Submitters to adjust their submissions to benefit Mr Adolph's Trading Positions. Mr Adolph sent at least 20 communications containing requests. The CHF LIBOR Submitters took Mr Adolph's requests into account.
33. Mr Adolph's requests were for high, low or specific CHF LIBOR submissions with the aim of influencing the final benchmark CHF LIBOR rate published by the BBA.

Motivation for the requests

34. Mr Adolph's requests were motivated by profit. The final benchmark CHF LIBOR rate published by the BBA would impact the profitability of the CHF Trading Positions for which Mr Adolph was responsible.
35. For example, on 16 October 2008, the following Bloomberg exchange took place between one of Deutsche's CHF LIBOR Submitters and Mr Adolph:

Adolph: *"need a high 1m libor today if possible please ... just for today please"*

Submitter: *"sure no probl will let u know b4 i sent it out ... what do u think....i make it 3.00 flat up to 3mths inkl.?"*

Adolph: *"many thanks ... and after that need a low 1m forever..."*

Submitter: *"hahahah will do my best n im sure it will come down"*

36. On 16 October 2008, Deutsche's submission was 3.00 for one month CHF LIBOR, a rise of 15 basis points from 2.85 the previous day. This resulted in Deutsche moving to equal fifth in the ranking of Panel Banks, from twelfth (last) the previous day.
37. Over the next few days, Deutsche made the following submissions for one month CHF LIBOR.

38. On 17 October 2008, Deutsche's submission moved back down 15 basis points to 2.85, this resulted in Deutsche moving back to twelfth (last) in the ranking of Panel Banks. By 22 October 2008, Deutsche's submission had fallen a further 35 basis points to 2.5. This resulted in Deutsche moving to equal eighth and last in the ranking of Panel Banks.
39. On 12 December 2008, the following Bloomberg exchange took place between one of Deutsche's CHF LIBOR Submitters and Mr Adolph:
- Adolph: *"your fixings low please"*
- Submitter: *"... so 1mth 40 2mths 60 3mths 80 ... fine for u?"*
- Adolph: *"6 month 90? ... perfect"*
40. On 12 December 2008, Deutsche made the following submissions for one month, three month and six month CHF LIBOR.
41. For one month CHF LIBOR Deutsche's submission was 0.4, a fall of 10 basis points from 0.5 the previous day. This resulted in Deutsche moving to eleventh in the ranking of Panel Banks, from equal first the previous day.
42. For three month CHF LIBOR Deutsche's submission was 0.7, a fall of 25 basis points from 0.95 the previous day. This resulted in Deutsche moving to eleventh in the ranking of Panel Banks, from first the previous day.
43. For six month CHF LIBOR Deutsche's submission was 0.9, a fall of 10 basis points from 1.0 the previous day. This resulted in Deutsche moving to eleventh in the ranking of Panel Banks, from equal sixth the previous day.
44. On 20 August 2009, the following Bloomberg exchange took place between Mr Adolph and one of Deutsche's CHF LIBOR Submitters:
- Adolph: *"42 6m chf libor typo no?"*
- Submitter: *"u wnaa have it at 42?"*
- Adolph: *"if possible"*
- Submitter: *"have fixing today ... 6m"*
- Submitter: *"sry was a misunderstanding thought u r looking for steeper short end.....will sent an update"*
- Adolph: *"many thanks mate"*
45. On 20 August 2009, Deutsche's submission was 0.42 for six month CHF LIBOR, a drop of four basis points from 0.46 the previous day. This resulted in Deutsche moving to eleventh in the ranking of Panel Banks, from equal second the previous day.

Deutsche's CHF LIBOR Submitters took account of Mr Adolph's requests

46. Deutsche's CHF LIBOR Submitters took Mr Adolph's requests into account.
47. On many occasions this is clear from the positive responses given by Deutsche's CHF LIBOR Submitters to Mr Adolph requests. On other

occasions, Mr Adolph made requests for precise CHF LIBOR submissions, which were then reflected in subsequent submissions. Examples of both are set out above.

Mr Adolph took account of his own positions when making JPY submissions

48. From July 2008 to November 2009, Mr Adolph acted as Deutsche's JPY LIBOR Submitter. During this period Mr Adolph took into account his Trading Positions when making JPY LIBOR submissions. In doing so, Mr Adolph was motivated by profit.
49. On a number of occasions, Mr Adolph moved his LIBOR submission from one side of the range of submissions to the other. A move of this nature would maximise the impact on the final LIBOR rate.
50. Mr Adolph referred openly to the fact that he was taking his Trading Positions into account when making JPY LIBOR submissions in contemporaneous communications.
51. For example, on 1 September 2008, Mr Adolph and External Trader B were discussing their respective trading positions and the benefits of high LIBORs at that time. During the exchange, Mr Adolph acknowledged that he was making high one month JPY LIBOR submissions because *"...mate need it high!"* That is, Mr Adolph required a high one month JPY LIBOR rate because of Deutsche's JPY LIBOR derivatives book.

Mr Adolph's improper agreement with External Trader B

52. Mr Adolph improperly agreed with External Trader B to make JPY LIBOR submissions which took into account requests made by External Trader B. Mr Adolph knew that in making requests to him, External Trader B was motivated by profit and seeking to benefit External Trader B's Trading Positions.
53. A number of examples are given below.
54. On 18 September 2008, the following Bloomberg exchange took place:

External Trader B:	<i>"you got any ax on 6m fix tonight?"</i>
Adolph:	<i>"absolutely none but i can help"</i>
External Trader B:	<i>"can you set low as a favour for me?"</i>
Adolph:	<i>"done"</i>
55. Later in the same Bloomberg communication Mr Adolph advised External Trader B that he proposed to make a six month JPY LIBOR submission of 0.99. This was five basis points lower than Mr Adolph's submission the previous day.
56. On 18 September 2008, Deutsche's six month JPY LIBOR submission was 0.98, down from 1.04 the previous day. This resulted in Deutsche moving to equal sixth in the ranking of Panel Banks, from first the previous day.
57. On 21 May 2009, the following Bloomberg exchange took place:

External Trader B: *"cld you do me a favour would you mind moving you[r] 6m libor up a bit today, i have a gigantic fix..."*

Adolph: *"I can do taht."*

58. On 21 May 2009, Mr Adolph increased his six month JPY LIBOR submission by six basis points. Deutsche's six month JPY LIBOR submission was 0.71, a rise from 0.65 the previous day. This resulted in Deutsche moving to eleventh in the ranking of Panel Banks, from sixteenth (last) the previous day.

59. During June and July 2009, the improper agreement between Mr Adolph and External Trader B went beyond attempts to manipulate the JPY LIBOR rate for a single day but extended to manipulation over a longer period. External Trader B needed a high six month LIBOR rate for the first two weeks of July 2009 and asked for Mr Adolph's assistance in a series of communications from 4 June 2009 onwards. Mr Adolph assured External Trader B that he would assist.

60. This was part of a wider campaign of manipulation by External Trader B, described at paragraphs 82-90 of the Final Notice which the Authority issued to UBS on 19 December 2012.

61. Mr Adolph agreed to assist External Trader B on the basis that, in return, External Trader B would assist him in achieving a low six month JPY LIBOR rate from the second half of July 2009 for the benefit of Mr Adolph's Trading Positions. External Trader B further incentivised Mr Adolph by entering into a series of facilitation trades that would benefit Mr Adolph's Trading Positions if the JPY LIBOR rate remained high until 17 July 2009 and fell thereafter.

62. On 26 June 2009, the following Bloomberg exchange took place:

External Trader B: *"basically i will help you in 2 weeks time ... i am the saem way"*

Adolph: *"perfect"*

External Trader B: *"but for the next 2weeks i really really need you to put 6m higfher" ... "after that i need 6m to crash off ... like you"*

Adolph: *"that is no problem for me, i do nothing with the cash guys until then"*

External Trader B: *"i need you to move 6m up for 2 weeks mate"*

...

Adolph: *"6m at 60 max en f of august ... to low?"*

External Trader B: *"no i'll go with that"*

Adolph: *"cool"*

External Trader B: *but please move 6m up on monday"*

Adolph: "understood"

External Trader B: "thx ... I need you in the panel on monday"

Adolph: "ok enough ... cheers"

External Trader B: "I will then get our 6m way down after july 18th it is"

Adolph: "ok"

External Trader B: "and will try to get everyone else down too"

63. On 26 June 2009, Mr Adolph increased his six month LIBOR submission by 10 basis points to 0.65. This resulted in Deutsche moving from sixteenth (last) in the ranking of Panel Banks to equal twelfth. On 29 June 2009, he increased his submission by a further six basis points to 0.71. This resulted in Deutsche moving from equal twelfth in the ranking of Panel Banks to sixth.
64. On 29 June 2009, in addition to increasing his six month JPY LIBOR submission by six basis points, Mr Adolph also executed four trades all of which would benefit from a high JPY LIBOR rate over the next two weeks, the period during which he and External Trader B had agreed to keep the JPY LIBOR rate high.
65. From 29 June 2009 to 7 July 2009, Deutsche was either fifth or sixth in the ranking of Panel Banks.
66. On 8 July 2009, despite External Trader B's request "to move 6m up for 2 weeks", Mr Adolph reduced his six month JPY LIBOR submission from 0.71 to 0.67. This would have benefitted Adolph's fixing position on that day and resulted in Deutsche moving from fifth in the ranking of Panel Banks to equal twelfth. Mr Adolph maintained his submission of 0.67 until 14 July 2009. During this period Deutsche's position in the ranking of Panel Banks was either equal ninth or equal seventh.
67. On 14 July 2009, External Trader B asked Mr Adolph: "if you cld hold your 6m fix till the eom wld be a massive help". Mr Adolph replied: "I put higher today". On 14 July 2009, Deutsche's six month JPY submission was 0.69, a rise from 0.67 the previous day. This resulted in Deutsche moving to equal fourth in the ranking of Panel Banks, from equal seventh. Mr Adolph maintained his six month JPY LIBOR submission at 0.69 from 14 July 2009 to 23 July 2009. During this period Deutsche's position in the ranking of Panel Banks was either third or fourth equal, or fourth.
68. On 23 July 2009, Mr Adolph's submission was 0.6 a fall from 0.69 the previous day. This resulted in Deutsche's submission moving to fourteenth equal in the ranking of Panel Banks, from equal third.
69. Mr Adolph clearly believed that the agreement with External Trader B would be effective. On 26 June 2009 in a Bloomberg exchange with another Panel Bank Mr Adolph stated: "I think what [will] happen [is] that 6m wil [will] stay high for another 2 weeks and then it drops." On 29 June 2009 in a Bloomberg exchange with two Deutsche Traders Mr Adolph stated, "it is only for two weeks then 6m goes down quickly again."

70. On 30 June 2009, the following Bloomberg exchange took place between Mr Adolph and a Deutsche Trader:

Trader: *"What do you think about the short-end mkt in JPY?"*

Adolph: *"2y is too low but 6m libor wil go very down after the 14th of july so it will be a yours soon"*

Trader: *"why 14th"*

Adolph: *"it is like that a very good guess! trust me"*

Recklessness

71. Mr Adolph received no formal training on the LIBOR submission process. Further, the improper requesting and taking into account of Trading Positions was widespread, routine and conducted openly, at Deutsche. But Mr Adolph was an experienced Trader, and he deliberately closed his mind to the risk that his behaviour constituted improper market conduct.

FAILINGS

72. The regulatory provisions relevant to this Notice are referred to in the Annex.

Knowing concern in Deutsche's breach of Principle 5

73. Section 66(2)(b) of the Act provides that a person is guilty of misconduct if, while an approved person, he has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person by or under the Act.
74. For the purposes of this Notice, Deutsche is the "relevant authorised person" under section 66(2)(b) of the Act and its breach of Principle 5 is the "contravention of a requirement imposed on that authorised person" by or under the Act.
75. Mr Adolph, an approved person, was knowingly concerned in Deutsche's breach of Principle 5 because during the Relevant Period he:
- (1) knew that the definition of LIBOR required Panel Banks to make submissions based on the rate at which borrowing in the interbank market could take place and that the definition did not allow for consideration of Trading Positions;
 - (2) made requests to Deutsche's CHF LIBOR Submitters, in an attempt to influence their LIBOR submissions;
 - (3) took into account the Trading Positions for which he was responsible when making JPY LIBOR submissions;
 - (4) improperly agreed with External Trader B to make JPY LIBOR submissions which took into account requests made by External Trader B;
 - (5) was motivated by profit when making requests to Deutsche's CHF LIBOR Submitters and when taking his JPY Trading Positions into

account; and knew that External Trader B was motivated by profit and sought to benefit his own Trading Positions, and

- (6) deliberately closed his mind to the risk that making requests to Deutsche's CHF LIBOR Submitters in an attempt to influence their LIBOR submissions and taking into account the Trading Positions for which he was responsible when making JPY LIBOR submissions, to benefit the financial interests of Deutsche, and improperly agreeing with External Trader B to make JPY LIBOR submissions which took into account requests made by External Trader B, was contrary to proper standards of market conduct.

Lack of fitness and propriety

76. The relevant sections of FIT are set out in the appendix to this notice. FIT 1.3.1G states that the Authority will have regard to, among other things, a person's integrity when assessing the fitness and propriety of a person to perform a particular controlled function.
77. Mr Adolph is not a fit and proper person to perform any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm because he lacks integrity.
78. Mr Adolph acted recklessly, and therefore with a lack of integrity, in deliberately closing his mind to the risk that his behaviour in relation to the submission of CHF and JPY LIBOR rates was contrary to proper standards of market conduct.

SANCTION

Financial Penalty

79. Mr Adolph's misconduct took place from 25 July 2008 to 11 March 2010.
80. In determining the appropriate financial penalty, the Authority has applied the Authority's policy on the imposition of financial penalties as set out in DEPP during the period from 28 August 2007 to 5 March 2010. The detailed provisions of DEPP relevant to this matter, as in force during that period, are set out in the Annex.
81. The Authority has also had regard to the provisions of DEPP in force during the post-5 March 2010 part of the Relevant Period.
82. DEPP 6.5.2 lists factors which may be relevant when the Authority determines the amount of financial penalty for a person under the Act. Relevant factors are analysed below. DEPP 6.5.1 provides that the list of criteria in DEPP 6.5.2 is not exhaustive and all the relevant circumstances of the case will be taken into consideration.
83. The Authority considers the following DEPP factors to be particularly important in assessing the sanction.

Deterrence – DEPP 6.5.2(1)

84. DEPP 6.5.2(1) states that when determining the appropriate level of penalty, the Authority 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. The Authority considers that the need for deterrence means that a very significant fine on Mr Adolph is appropriate.

Nature, seriousness and impact of the breach – DEPP 6.5.2(2)

85. Mr Adolph's breaches were extremely serious. Mr Adolph improperly made requests to Deutsche's CHF Submitters, as well as taking his own Trading Positions into account. In addition, he made an improper agreement with External Trader B at another Panel Bank.
86. LIBOR is of central importance to the operation of UK and worldwide financial markets. Doubts about the integrity of LIBOR threaten confidence in these markets. Panel Banks' Submitters are the guardians of LIBOR and their failings are therefore of the utmost seriousness.
87. Mr Adolph's misconduct could have caused serious harm to other market participants.
88. Mr Adolph was an approved person and was in a position of significant responsibility in his role at Deutsche.

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

89. Mr Adolph's conduct was reckless. As a highly experienced market professional, he acted as he did despite knowing that taking Trading Positions into account when making LIBOR submissions was not permitted under the BBA's definition of LIBOR, and deliberately closed his mind to the risk that taking them into account was contrary to proper standards of market conduct.

Prohibition Order

90. The Authority considers that Mr Adolph's actions as described in this notice demonstrate that he lacks integrity. As such, the Authority believes that it is appropriate to prohibit Mr Adolph from carrying out any function in relation to any regulated activity carried out by any authorised person, exempt person or exempt professional firm.

PROCEDURAL MATTERS

91. This Notice is given to Mr Adolph under and in accordance with section 390 of the Act. The following statutory rights are important.

Decision maker

92. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.

Manner and time for payment

93. The financial penalty must be paid in full by Mr Adolph to the Authority no later than 23 March 2018, and an initial payment must be made by Mr

Adolph to the Authority of £51,000 by the close of business on the date of issue of this Notice.

If the financial penalty is not paid

94. If all or any of the financial penalty is outstanding on 23 March 2018, the Authority may recover the outstanding amount as a debt owed by Mr Adolph and due to the Authority.

Publicity

95. 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.
96. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority Contacts

97. For more information concerning this matter generally, please contact Rebecca Cole (direct line: 020 7066 7202) at the Authority.

Mark Francis,
Head of Department (Wholesale 1)
Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX

RELEVANT REGULATORY PROVISIONS AND RULES

1. The Authority's strategic objective, set out in section 1B(2) of the Act, is ensuring that the relevant markets function well. The relevant markets include the financial markets and the markets for regulated financial services (section 1F of the Act). The Authority's operational objectives are set out in section 1B(3) of the Act, and include the integrity objective.

Knowingly concerned

2. The Authority has the power, pursuant to section 66(1) of the Act, to impose a financial penalty of such amount as it considers appropriate where it appears to the Authority that a person is guilty of misconduct and it is satisfied that it is appropriate in all the circumstances to take action against him.
3. A person is guilty, pursuant to section 66(2)(b) of the Act, of misconduct if, while an approved person, he has been knowingly concerned in a contravention by the relevant authorised person of a requirement imposed on that authorised person by or under the Act.
4. PRIN was issued pursuant to section 138 of the Act and contains general statements regarding the fundamental obligations of firms under the regulatory system.

PRIN

5. Principle 5 states: "A firm must observe proper standards of market conduct" (PRIN 2.1.1R).

Lack of integrity

6. The Authority has the power, pursuant to section 56 of the Act, to make a prohibition order if it appears to the Authority that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, exempt person or exempt professional firm. Pursuant to section 56(2) of the Act, such an order may relate to a specified function, any function falling within a specified description or any function.

FIT

7. FIT sets out the criteria for assessing a person's fitness and propriety.
8. FIT 1.1.2G states:
9. *"The purpose of FIT is to set out and describe the criteria that the Authority will consider when assessing the fitness and propriety of a candidate for a controlled function (see generally SUP 10 on approved persons). The criteria are also relevant in assessing the continuing fitness and propriety of approved persons. The criteria that the Authority will consider in relation to an authorised person are described in COND."*

10. FIT 1.2.3G states:

“Under section 63(1) of the Act (Withdrawal of approval), the Authority may withdraw its approval if it considers that the person in respect of whom the approval was given is not fit and proper to perform the controlled function to which the approval relates.”

11. FIT 1.3.1G states that the Authority will have regard to, among other things, a person’s honesty and integrity when assessing the fitness and propriety of a person to perform a particular controlled function.

12. FIT 1.3.3G states:

13. *“The criteria listed in FIT 2.1 to FIT 2.3 are guidance and will be applied in general terms where the Authority is determining a person’s fitness and propriety. It would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination.”*

14. FIT 2.1.1 states:

15. *“In determining a person’s honesty, integrity and reputation, the Authority will have regard to all relevant matters including, but not limited to, those set out in FIT 2.1.3 G which may have arisen either in the United Kingdom or elsewhere[...].”*

Financial penalty

16. The Authority’s policy on the imposition of financial penalties and public censures is set out in DEPP. The provisions of DEPP set out below are those which were in force from 28 August 2007 to 5 March 2010.

17. DEPP 6.2.4 states that the primary responsibility for ensuring compliance with a firm’s regulatory obligations rests with the firm itself. However, the FCA may take disciplinary action against an approved person where there is evidence of personal culpability on the part of that approved person. Personal culpability arises where the behaviour was deliberate or where the approved person’s standard of behaviour was below that which would be reasonable in all the circumstances at the time of the conduct concerned.

18. DEPP 6.5.1(1) states that 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. The list of factors in DEPP 6.5.2 G is not exhaustive: not all of these factors may be relevant in a particular case, and there may be other factors, not included below, that are relevant.

19. DEPP 6.5.2(1) states that when determining the appropriate level of penalty, the Authority 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.

20. DEPP 6.5.2(2) states that the Authority will consider the seriousness of the breach in relation to the nature of the rule, requirement or provision breached. The considerations that may be relevant include:
- (a) the duration and frequency of the breach;
 - (d) the loss or risk of loss caused to consumers, investors or other market users;
21. DEPP 6.5.2(3) states that the Authority may take account of the extent to which the breach was deliberate or reckless.

Prohibition order

22. The Authority's approach to deciding whether to impose a prohibition order, and the scope of any such prohibition order, is set out in chapter 9 of EG. The provisions of EG set out below are those which were in force from 28 August 2007.
23. EG 9.1 sets out how the Authority's power to make a prohibition order under section 56 of the Act helps it work towards achieving its regulatory objectives. The Authority may exercise this power where it considers that, to achieve any of its 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 9.3 states:
- "In deciding whether to make a prohibition order and/or, in the case of an approved person, to withdraw its approval, the Authority will consider all the relevant circumstances including whether other enforcement action should be taken or has been taken already against that individual by the Authority. ... in some cases the Authority may take other enforcement action against the individual in addition to seeking a prohibition order and/or withdrawing its approval. The Authority will also consider whether enforcement action has been taken against the individual by other enforcement agencies or designated professional bodies."*
25. EG 9.5 states:
- "The scope of a prohibition order will depend on the range of functions which the individual concerned 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."*
26. EG 9.8 to 9.14 set out guidance on the Authority's approach to making prohibition orders against approved persons.
27. EG 9.8 states that, in deciding whether to make a prohibition order, the Authority will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.
28. Specifically in relation to approved persons, EG 9.9 states that in deciding whether to make a prohibition order, the Authority will consider all the relevant circumstances of the case. These include, but are not limited to, the following:

(2) Whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety of approved persons are set out in FIT 2.1 (Honesty, integrity and reputation); FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness).

(3) Whether, and to what extent, the approved person has:

- a. *[.....]*
- b. *been knowingly concerned in a contravention by the relevant firm of a requirement imposed on the firm by or under the Act (including the Principles and other rules) or failed to comply with any directly applicable Community regulation made under MiFID or any directly applicable provision of the auction regulation.*

(8) The severity of the risk which the individual poses to consumers and to confidence in the financial system.