
FINAL NOTICE

To: **Matthew Sixsmith**

Date of Birth **20 August 1980**

IRN: **MRS01214**

Date **1 February 2010**

TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS (“the FSA”) gives you final notice about a decision to withdraw your approval and to make a prohibition order:

1. ACTION

1.1. The FSA gave you a Decision Notice on 22 January 2010 which notified you that, for the reasons listed below, and having agreed with you the facts and matters relied on, the FSA has decided to take the following action:

- (1) to withdraw, pursuant to section 63 of the Act, the approval granted to you under section 59 of the Act to perform controlled functions in relation to Bridgewater House UK Limited (“Bridgewater”); and
- (2) to make an order, pursuant to section 56 of the Act, prohibiting you from performing any significant influence function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm (“the Prohibition Order”).

- 1.2. You confirmed on 23 December 2009 that you will not be referring the matter to the Financial Services and Markets Tribunal.
- 1.3. Accordingly, for reasons set out below, the FSA has today withdrawn your approval and made a prohibition order against you, which has effect from today.
- 1.4. The FSA had sought to impose a financial penalty of £25,000, pursuant to section 66 of the Act, in respect of breaches of Statement of Principle 7 of the FSA's Statements of Principle for Approved Persons ("the Statements of Principle"), issued under section 64 of the Act.
- 1.5. However, you have provided verifiable evidence that imposing such a financial penalty would cause you serious financial hardship. Consequently, the FSA has decided not to impose a financial penalty on you.
- 1.6. You agreed to settle at an early stage of the FSA's investigation.

2. REASONS FOR THE ACTION

- 2.1. By its Decision Notice dated 22 January 2010 the FSA gave notice that it has decided to take the action referred to above.
- 2.2. The FSA has decided to take this action as a result of your conduct from 16 March 2006, as an approved person, at Bridgewater. From 16 March 2006, you were approved to perform Controlled Function 1 (Director) ("CF1"), and you were also responsible for insurance mediation at Bridgewater. Between 16 March 2006 and 31 March 2009 you were also approved to perform Controlled Function 8 (Apportionment and oversight) ("CF8").
- 2.3. Whilst an approved person, your conduct fell short of the FSA's prescribed regulatory standards for approved persons carrying out significant influence functions. In particular, you failed in your capacity as an approved person performing CF1 and CF8, to:
 - (1) take reasonable steps to ensure that Bridgewater complied with the relevant requirements of the regulatory system. Specifically, you failed to ensure that Bridgewater organised and maintained client money in accordance with the Client Assets sourcebook ("CASS") which forms part of the FSA Handbook;
 - (2) ensure that Bridgewater passed on insurance premiums to insurers that it collected from its customers; and
 - (3) ensure that, when Bridgewater did pay insurance premiums to insurers on behalf of its customers, it did so by the dates the premiums were due.

As a result, you have breached Statement of Principle 7.

- 2.4. The failings outlined in paragraph 2.3 are viewed by the FSA as being particularly serious because your conduct resulted in the loss of client money totalling approximately £85,000 and exposed approximately 700 of Bridgewater's customers to an unacceptably high risk of finding themselves without valid insurance cover.

- 2.5. The FSA considers it a mitigating factor that you admitted the misconduct, outlined at paragraph 2.3 above, at an early stage of the investigation. But for that admission, the FSA would have sought to impose a greater financial penalty on you.
- 2.6. The FSA proposed to impose a financial penalty on you in connection with the breaches of Statement of Principle 7. However, you have provided verifiable evidence that imposing such a financial penalty would cause you serious financial hardship. Consequently, the FSA has decided not to impose a financial penalty on you.
- 2.7. In addition, as a result of the nature and seriousness of your conduct outlined at paragraphs 2.3 and 2.4 above, the FSA has concluded that you have failed to meet minimum regulatory standards in terms of competence and capability, and are not fit and proper to perform any significant influence functions in relation to regulated activities carried on by authorised persons, exempt persons and exempt professional firms. Accordingly the FSA has decided to withdraw your approval and to prohibit you from performing any significant influence functions in relation to any regulated activities.
- 2.8. This action supports the FSA's furtherance of its market confidence and consumer protection objectives.

3. RELEVANT STATUTORY AND REGULATORY PROVISIONS

- 3.1. The relevant statutory provisions, regulatory requirements and FSA guidance are set out at Annex 1 to this Notice.

4. FACTS AND MATTERS RELIED ON

Background

- 4.1. Bridgewater was a mortgage and general insurance broker based in the Manchester area. Bridgewater dealt mainly in the sub-prime mortgage market, and was authorised by the FSA to carry out such activities on 9 December 2004. Bridgewater was authorised by the FSA to arrange regulated general insurance contracts on 14 January 2005.
- 4.2. Bridgewater arranged life and critical illness insurance in connection with mortgages. When Bridgewater sold an insurance policy, it entered into an arrangement with its customers whereby Bridgewater charged customers, upfront, the value of two years premiums. This sum was typically added to the customer's mortgage before the insurance policy started. Bridgewater held the sums received from customers in this regard and paid money, in the form of insurance premiums, to insurers as and when the dates for payment fell due; typically on a monthly basis.
- 4.3. Bridgewater arranged insurance contracts for approximately 1,500 customers since it became authorised and placed the insurance business it wrote with two insurance providers.

- 4.4. Bridgewater ceased trading and appointed a liquidator to deal with the orderly wind down of the firm on 8 September 2009.

Protection of client money

- 4.5. Customers paid insurance premiums to Bridgewater, on the understanding that Bridgewater would pay the insurance premiums to the insurer. The money Bridgewater received from customers was ‘client money’ and was subject to the relevant FSA rules and standards as set out in Chapter 5 of the Client Assets Sourcebook (“CASS 5”) which forms part of the FSA Handbook. Bridgewater was therefore obliged to treat the client money it was responsible for in accordance with CASS 5.
- 4.6. The rules in CASS 5 provided that Bridgewater should have held and received client money as a trustee for the benefit of its customers by ensuring that it was segregated from all other funds in a designated separate bank account. It was important that the client money Bridgewater received was held in a separate bank account so it could be held on trust and therefore ring-fenced. This would mean that, in the event of Bridgewater becoming insolvent, client money could be returned to the customers.
- 4.7. As an approved person at Bridgewater holding significant influence functions you were responsible for ensuring that Bridgewater organised and managed its client money in accordance with CASS 5.
- 4.8. You failed to separate the client money Bridgewater received from its own funds. Instead you placed all money, whether or not it constituted client money, into one bank account held in the name of Bridgewater.
- 4.9. By failing to hold client money in a separate account and therefore not holding client money in a trust, customers’ money was not automatically ring-fenced when Bridgewater went into liquidation. Consequently, the client money that Bridgewater held was at risk of loss if Bridgewater became insolvent.
- 4.10. You admitted to the FSA that you did not understand that monies customers paid to Bridgewater to cover the cost of insurance premiums constituted client money. You therefore failed to organise and manage the client money for which Bridgewater was responsible. Your failure properly to understand your regulatory obligations in this regard created significant risks; that money paid by customers would not be passed on to insurers and that, consequently, customers’ policies would lapse. That risk, to some extent, crystallised following Bridgewater’s liquidation, in that Bridgewater estimated that it was responsible for £85,000 of client money which it could not repay.
- 4.11. The FSA concludes that you failed to take reasonable steps to ensure that Bridgewater complied with the relevant requirements of the regulatory system by failing to ensure that the client money Bridgewater held was properly organised and managed. The FSA also concludes that your actions demonstrated that you did not have sufficient regard for the responsibility you held for safeguarding customers’ money and subjected them to significant financial loss. Accordingly, you breached Statement of Principle 7.

Payment and control of customer insurance premiums

- 4.12. Life and critical illness insurance protects a policyholder in the event of their death or the contraction of a specified serious illness, for example, a heart attack. Upon the occurrence of an insured event, the insurer will pay to the policyholder (or their estate) a lump sum of money. Where, as in Bridgewater's case, life and critical illness insurance is taken out in conjunction with a mortgage, the policy proceeds are typically used to repay the customer's mortgage.
- 4.13. It is imperative that payments of insurance premiums are made in accordance with the terms of the insurance policy. As Bridgewater's sole director from 16 March 2006, you were the person who was responsible for ensuring that customer insurance premiums were properly passed onto the insurer on a monthly basis. If payments were not made by the due dates the policy would lapse and eventually be cancelled. If the policy was cancelled, the policyholder would cease to hold valid insurance cover.
- 4.14. The insurers with whom Bridgewater dealt required the payment of insurance premiums to be made on a monthly basis. If payment for one month was missed, and/or made late the insurers would lapse the customer's insurance policy. If the outstanding premiums were not paid within three months of the policy lapsing, then insurance cover for the customer would be cancelled.
- 4.15. You failed to pay premiums to insurers for the period Bridgewater had agreed with its customers. You did not know the period for which Bridgewater had to pay these premiums because, until May 2008, you kept no record of when you should start or stop passing on insurance premiums for each of Bridgewater's customers. As a result, you stopped paying insurance premiums for some of Bridgewater's customers before the expiry of the two year period.

Customer A – failure to pass on insurance premiums to insurers

- 4.16. For example, Bridgewater arranged a life and critical insurance policy for Customer A on 22 June 2007. Under the terms of the agreement with the customer, Bridgewater was to pass the policy premiums for the period from 22 June 2007 until 21 June 2009 directly to the insurer on Customer A's behalf. However, you failed to ensure that Bridgewater remitted the monthly insurance premium in respect of Customer A's policy for a period of six months between 22 November 2008 and 21 June 2009. This created a risk that Customer A's insurance policy would lapse.

Customer B – failure to monitor and control remittance of premiums

- 4.17. Even when you did correctly identify the time period for which Bridgewater was responsible for passing on insurance premiums, you failed adequately to monitor and control the remittance of premiums to the insurer. This resulted in you failing to make payments by the due dates imposed by insurers.
- 4.18. For example, Bridgewater arranged a life and critical illness policy for Customer B which commenced in August 2007. You properly maintained the monthly payment

on behalf of Customer B until November 2008. However, you failed to make the monthly payments for December and January 2009 until you paid these late in February 2009. This created a risk that Customer B's insurance policy would lapse.

- 4.19. Approximately 700 insurance policies lapsed because you either prematurely stopped passing on customer insurance premiums and/or failed to remit premiums in a timely fashion.
- 4.20. Your failure properly to manage and control the remittance of insurance premiums had serious effects for Bridgewater's customers because 259 customers did not receive the benefit of insurance cover for the full two year period which they had paid for.
- 4.21. The FSA concludes that by failing to ensure that the remittance of insurance premiums on behalf of Bridgewater's customers was properly maintained, monitored and controlled, you failed to take reasonable steps to ensure that Bridgewater complied with its obligations to consumers and the relevant requirements of the regulatory system in respect of the business of the firm for which you were responsible in your controlled function of CF1 and CF8. The FSA also concludes that your conduct created a risk that Bridgewater's customers would be uninsured when they had paid for that insurance. In doing so, you exposed Bridgewater's customers to the risk, which, by paying policy premiums to Bridgewater, customers believed had been mitigated, of being unable to repay their mortgage in the event of their death or serious illness. Accordingly, the FSA concludes that this constitutes a further breach of Statement of Principle 7.

5. ANALYSIS OF MISCONDUCT AND SANCTIONS

- 5.1. By reason of the facts and matters referred to in paragraphs 4.5 to 4.11 above, the FSA has concluded that you have failed, in your capacity as director performing significant influence functions CF1 and CF8, to take reasonable steps to ensure that the business of the firm for which you are responsible in your controlled functions complied with the relevant requirements and standards of the regulatory system, in breach of Statement of Principle 7. The FSA concludes that you failed to take reasonable steps to ensure that Bridgewater had adequate systems and controls to safeguard its client money and in so doing also caused Bridgewater to breach CASS 5.3.2R and CASS 5.3.3R.
- 5.2. The FSA has also concluded that you also breached Statement of Principle 7 on the basis of the facts and matters discussed in paragraphs 4.12 to 4.21. Specifically, you failed to monitor and control the remittance of insurance payments on behalf of Bridgewater's customers.

Prohibition

- 5.3. By virtue of the failings described at paragraphs 5.1 and 5.2 above, the FSA concludes that you lack competence and capability, and that therefore you are not fit and proper to perform any significant influence functions in relation to regulated activities carried on by authorised persons, exempt persons and exempt professional firms.

Financial penalty

- 5.4. The FSA considered whether to impose a financial penalty on you but, as set out at paragraph 2.6 above, decided not to as to do so would cause you serious financial hardship.
- 5.5. The FSA's policy on the imposition of financial penalties as at the date of this notice is set out in Chapter 6 of the Decision Procedures and Penalties Manual ("DEPP"), which forms part of the FSA Handbook. DEPP sets out the factors that may be of particular relevance in determining whether it is appropriate to impose a financial penalty. The criteria are not exhaustive and all relevant circumstances of the case will be taken into consideration. In addition, the FSA has had regard to the corresponding provisions of Chapter 13 of the Enforcement Manual ("ENF") in force during the relevant period until 27 August 2007 and Chapter 7 of the Enforcement Guide ("EG"), in force thereafter.
- 5.6. The principal purpose of a financial penalty is to promote high standards of regulatory 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.
- 5.7. The FSA will consider the full circumstances of each case when determining whether or not to take action for a financial penalty. DEPP 6.5.2G sets out guidance on a non-exhaustive list of factors that may be of relevance in determining the level of financial penalty. The FSA considers that the following factors are particularly relevant in this case.

The extent to which the breach was deliberate or reckless

- 5.8. The FSA has concluded that you have not acted deliberately or recklessly.

The size, financial resources and other circumstances of the person on whom the penalty is to be imposed

- 5.9. The FSA, having regard to all the circumstances, considered the appropriate level of financial penalty for your breaches of the Statements of Principle to be £25,000. However, you provided verifiable evidence that imposing such a financial penalty would cause you serious financial hardship and therefore, in this case, the FSA has decided not to impose the financial penalty.

Conduct following the breach

- 5.10. The FSA notes that you admitted your conduct, and that you voluntarily ceased Bridgewater's regulated insurance activities in the light of the FSA's concerns, at an early stage of the investigation. In determining the appropriate sanction, the FSA has viewed your conduct in these regards to be mitigating factors.

The nature, seriousness and impact of the breach

- 5.11. The FSA has considered the nature and seriousness of the breaches, including the nature of the requirements and Principle breached the number and duration of the breaches, the extent to which the breaches illustrated a lack of competence and capability and the extent to which the breaches revealed serious or systemic weaknesses in Bridgewater's management systems and internal controls.

Withdrawal of approval and prohibition

- 5.12. The FSA has concluded that your conduct fell short of the standards required by the FSA's Fit and Proper Test for Approved Persons in terms of competence and capability. The FSA therefore concludes that you are not fit and proper to perform any significant influence functions in relation to regulated activities carried on by authorised persons, exempt persons and exempt professional firms.
- 5.13. It is, therefore, necessary and proportionate, in order to achieve its regulatory objectives, for the FSA to exercise its powers to withdraw your approval and make a Prohibition Order against you.

6. DECISION MAKER

- 6.1. The decision which gave rise to the obligation to give this Final Notice was made by the Settlement Decision Makers on behalf of the FSA.

7. IMPORTANT

- 7.1. This Final Notice is given to you in accordance with section 390 of the Act.

Publicity

- 7.2. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.
- 7.3. The FSA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FSA contacts

- 7.4. For more information concerning this matter generally, you should contact Mario Theodosiou (direct line: 020 7066 5914 /fax: 020 7066 5915) of the Enforcement Division of the FSA.

Signed:

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Tom Spender

Head of Department

FSA Enforcement and Financial Crime Division

Annex 1

STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

1. Statutory provisions

- 1.1. The FSA's statutory objectives, set out in section 2(2) of the Act, are: market confidence; public awareness; the protection of consumers; and the reduction of financial crime.

Withdrawal of approval

- 1.2. The FSA has the power pursuant to section 63 of the Act to withdraw an approval given under section 59, if the FSA considers that the approved person is not a fit and proper person to perform the function to which the approval relates.

Prohibition

- 1.3. Under section 56 of the Act, if it appears to the FSA 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, the FSA may make a prohibition order.
- 1.4. The effect of making a prohibition order is to prohibit an individual from performing functions within authorised firms and to prohibit authorised firms from employing the individual to perform specific functions. Such an order may relate to:
 - (1) a specified function, any function falling within a specified description, or any function (section 56(2)); and
 - (2) a specified regulated activity, any regulated activity falling within a specified description, or all regulated activities (section 56(3)(a)).

Financial penalty

- 1.5. Section 66 of the Act provides that the FSA may take action against a person if it appears to the FSA that the person is guilty of misconduct and the FSA is satisfied that it is appropriate in all the circumstances to take action against him. Misconduct includes failure by an approved person to comply with a statement of principle. The action that may be taken by the FSA includes the imposition of a penalty on the approved person of such amount as it considers appropriate.

2. Regulatory Guidance

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

- 2.1. The FSA's effective use of the power under section 63 of the Act to withdraw approval from an approved person helps ensure high standards of regulatory conduct by preventing an approved person from continuing to perform the controlled function to which the approval relates if he is not a fit and proper person to perform that function. Where it considers this is appropriate, the FSA may prohibit an approved person, in addition to withdrawing their approval.
- 2.2. The FSA will consider making a prohibition order where it appears that an individual is not fit and proper to carry out functions in relation to regulated activities carried on by firms. The FSA may exercise these powers where it considers that to achieve any of its statutory objectives it is necessary to prevent an individual from carrying out any function in relation to regulated activities. The FSA policy in relation to the decision to withdraw its approval and/or make a prohibition order is set out in Chapter 9 of the Enforcement Guide ("EG").
- 2.3. EG took effect from 28 August 2007, replacing the FSA's previous policy in relation to the prohibition of individuals (which was contained in Chapter 8 of the Enforcement Manual ("ENF")). Although the references in this notice are to EG, as the conduct described in this Warning Notice spans both sets of policy the FSA has also had regard to the relevant sections of ENF.
- 2.4. EG 9.4 sets out the general scope of the FSA's powers in this respect, which include the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. EG 9.5 provides that the scope of a prohibition order will vary according to 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.
- 2.5. EG 9.9 provides that when deciding whether to make a prohibition order against an approved person and/or withdraw its approval, the FSA will consider all the relevant circumstances of the case, which may include (but are not limited to):
 - (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety are set out in FIT 2.1 (Honesty, integrity and reputation), FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
 - (2) whether, and to what extent, the approved person has failed to comply with the Statements of Principle issued by the FSA with respect to the conduct of approved persons;
 - (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.
- 2.6. EG provides at paragraph 9.23 that the FSA may impose a financial penalty in addition to imposing a prohibition order where it is appropriate to do so.

The FSA's policy on the imposition of financial penalties

- 2.7. The FSA's policy in relation to the imposition of financial penalties is set out in Chapter 6 of the Decision Procedure and Penalties Manual ("DEPP") which forms part of the FSA Handbook. It was previously set out in Chapter 13 of the Enforcement Manual ("ENF"), to which the FSA has had regard. DEPP 6.1.2 provides that the principal purpose of imposing a financial penalty is to promote high standards of regulatory conduct by deterring persons who have committed breaches from committing further breaches, helping to deter other persons from committing similar breaches and demonstrating generally the benefits of compliant behaviour.
- 2.8. The FSA will consider the full circumstances of each case when determining whether or not to take action for a financial penalty. DEPP 6.2.1G sets out guidance on a non-exhaustive list of factors that may be of relevance in determining whether to take action for a financial penalty, which include the following:
- (1) DEPP 6.2.1G(1): The nature, seriousness and impact of the suspected breach.
 - (2) DEPP 6.2.1G(2): The conduct of the person after the breach.
 - (3) DEPP 6.2.1G(4): FSA guidance and other published materials.
 - (4) DEPP 6.2.1G(5): Action taken by the FSA in previous similar cases.

Determining the level of the financial penalty

- 2.9. The FSA will consider all the relevant circumstances of a case when it determines the level of financial penalty. DEPP 6.5.2G sets out guidance on a non exhaustive list of factors that may be of relevance when determining the amount of a financial penalty, which include:
- (1) whether the breach revealed serious or systemic weaknesses in the person's procedures or of the management systems or internal controls relating to all or part of a person's business; (DEPP 6.5.2 G (2) (c)); and
 - (2) the loss or risk of loss caused to consumers, investors or other market users; (DEPP 6.5.2 G (2) (d)).

3. Regulatory Requirements

(i) APER

- 3.1. APER sets out the Statements of Principle in respect of approved persons and conduct which, in the opinion of the FSA, does not comply with the relevant Statements of Principle. It further describes factors to be taken into account in determining whether an approved person's conduct complies with a Statement of Principle.
- 3.2. APER 3.1.3G stipulates 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 to be expected in that function.
- 3.3. APER 3.1.4G states 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.
- 3.4. In this case, the FSA considers the most relevant Statements of Principle to be Statement of Principle 7 under which an approved person performing a significant influence function must take reasonable steps to ensure that the business of the firm for which he is responsible in his controlled function complies with the relevant requirements and standards of the regulatory system.
- 3.5. APER 4.7 gives examples of conduct which does not comply with Statement of Principle 7. This includes:
 - (1) failing to take reasonable steps to implement (either personally or through a compliance department or other departments) adequate and appropriate systems of control to comply with the relevant requirements and standards of the regulatory system in respect of its regulated activities (APER 4.7.3E);
 - (2) failing to take reasonable steps to monitor (either personally or through a compliance department or other departments) compliance with the relevant requirements and standards of the regulatory system in respect of its regulated activities. (APER 4.7.4E).

(ii) Handbook Provisions

- 3.6. The sections of the FSA handbook entitled "CASS" set out the supervisory provisions and the requirements relating to holding client money.
- 3.7. CASS 5.3 sets out rules and guidance in relation to holding client money in a statutory trust.
- 3.8. CASS 5.3.2R requires that a firm (other than a firm acting in accordance with CASS 5.4) receives and holds client money as trustee (or in Scotland as agent) on the following terms:
 - (1) for the purposes of and on the terms of CASS 5.3, CASS 5.5 and the client money (insurance) distribution rules;

- (2) subject to (4), for the clients (other than clients which are insurance undertakings when acting as such) for whom that money is held, according to their respective interests in it;
- (3) after all valid claims in (2) have been met, for clients which are insurance undertakings according to their respective interests in it;
- (4) on the failure of the firm, for the payment of the costs properly attributable to the distribution of the client money in accordance with (2) and (3); and
- (5) after all valid claims and costs under (2) to (4) have been met, for the firm itself.

3.9. CASS 5.5 sets out rules and guidance in relation to segregation of client money and the operation of client money accounts.

3.10. CASS 5.5.3R requires that a firm must, except to the extent permitted by CASS 5.5, hold client money separate from the firm's money.

(iii) Fit and Proper Test for Approved Persons

3.11. The section of the FSA handbook entitled “FIT” sets out the Fit and Proper test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function and FIT is also relevant in assessing the continuing fitness and propriety of an approved person.

3.12. In this instance the criteria set out in FIT are relevant in considering whether the FSA may exercise its powers to prohibit and/or withdraw approval of an individual in accordance with EG 9.8.

3.13. FIT 1.3 provides that the FSA will have regard to a number of factors when assessing a person’s fitness and propriety. The most important considerations include the person’s honesty, integrity and reputation, and the person’s competence and capability.

3.14. In determining a person’s competence and capability FIT 2.2 provides that the FSA will have regard to matters including, but not limited to, those set out in FIT 2.2.1G. These include:

- (1) whether the person satisfies the relevant FSA training and competence requirements in relation to the controlled function the person performs or is intended to perform (FIT 2.2.1G(1)); and
- (2) whether the person has demonstrated by experience and training that the person is able, or will be able if approved, to perform the controlled function (FIT 2.2.1G(2)).