Financial Conduct Authority

FINAL NOTICE

To:	David Caplin
Date of birth:	30 September 1960
Individual Reference Number:	DSC01046
Date:	22 January 2015

ACTION

1. For the reasons given in this Notice, the Authority hereby:

   (1) imposes on David Caplin ("Mr Caplin") a financial penalty of £210,000; and

   (2) makes an order prohibiting Mr Caplin from performing any significant influence function in relation to any regulated activity carried on by any authorised person, exempt person, or exempt professional firm. This order takes effect from 22 January 2015.

2. Mr Caplin agreed to settle at an early stage of the Authority's investigation. Mr Caplin therefore qualified for a 30 percent (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 £300,000 on Mr Caplin.

SUMMARY OF REASONS

3. On 15 May 2014, the Authority issued Mr Caplin's previous employer, Martins, with a final notice disciplining the firm for its role in the manipulation of LIBOR. Martins' misconduct included its inadequate systems and controls. Over the Relevant Period, Mr Caplin was Martins' chief executive, held a number of significant influence functions at Martins and was the dominant personality at the firm. He had oversight responsibility for ensuring that Martins' systems and controls and the operation of the business were adequate from a regulatory standpoint. Furthermore, he assumed *de facto* responsibility for oversight and monitoring of Broker conduct.

4. Mr Caplin's failings, described in this Notice, contributed to allowing Martins to engage in the manipulation of LIBOR. In performing the CF3, CF1 and CF8 significant influence functions at Martins during the Relevant Period, Mr Caplin breached Statement of Principle 7 by failing to take reasonable steps to ensure that Martins complied with the relevant requirements and standards of the regulatory regime. Specifically, he:

   (1) presided over a firm where the compliance culture was extremely weak;

   (2) failed to ensure the timely and adequate implementation of recommendations made by the Compliance Consultancy, to carry out a risk review;

   (3) failed to ensure the effective oversight of the firm's compliance function;

   (4) failed to ensure the effective supervision and monitoring of Broker conduct, for which he had assumed personal executive responsibility; and

   (5) failed to identify and remedy Martins' lack of controls to prevent Brokers making or receiving corrupt inducements.

5. The Authority views Mr Caplin's failures as serious because:

   (1) the Authority places great emphasis on the responsibilities of senior management, because senior managers are responsible for the standards and conduct of the businesses they run;

   (2) Mr Caplin was ultimately responsible for failing to address a culture at Martins where compliance was seen as unimportant rather than as an integral part of the running of the firm; and

   (3) Mr Caplin's failings contributed to Martins' misconduct in respect of LIBOR and risked compromising the integrity of the financial market within which Martins operated.

6. The Authority has therefore decided to impose a financial penalty on Mr Caplin in the amount of £210,000, pursuant to section 66 of the Act.

7. Furthermore this conduct demonstrates that Mr Caplin paid insufficient regard to material requirements of the regulatory regime, thereby demonstrating his lack of competence and capability as an approved person. Overall, his conduct was well below the standards reasonably expected of a significant influence function holder. In all the circumstances, the Authority considers that Mr Caplin is not fit and proper to perform any significant influence functions and that he should be prohibited from doing so because he lacks sufficient competence and capability. Therefore, the Authority has decided to make an order prohibiting Mr Caplin from performing any significant influence function in relation to any regulated activity carried on by any authorised person, exempt person, or exempt professional firm, pursuant to section 56 of the Act.

DEFINITIONS

8. The definitions below are used in this Notice.

   "2005 Review" means a review of the compliance arrangements at Martins carried out by the Compliance Consultancy in 2005;

"2006 Review" means a review of the compliance arrangements at Martins carried out by the Compliance Consultancy in 2006;

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

"Audit Committee" means a sub-committee of the Board, which from May 2005, was responsible for the reviewing the effectiveness of Martins' internal control policies and procedures for the identification, assessment and reporting of financial risks;

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

"Board" means the Board of Directors of RP Martin Holdings;

"Broker(s)" means an interdealer broker employed by Martins acting as intermediary in, amongst other things, deals for funding in the cash markets and interest rate derivatives contracts;

"BBA" means the British Bankers Association, which until 31 January 2014 was the administrator of LIBOR;

"Compliance Consultancy" means a firm of external compliance consultants commissioned by Martins to carry out the 2005 Review and 2006 Review;

"DEPP" means the Authority's Decisions Procedures and Penalties Guide;

"ENF" means the Authority's Enforcement Manual;

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

"IPC" means the Inter-professionals Code, part of the Authority's handbook until 31 October 2007;

"JPY" mean Japanese Yen;

"LIBOR" means the London Interbank Offered Rate;

"Manager" means a Martins employee with direct line management responsibility over Brokers during the Relevant Period;

"Martins" means Martin Brokers UK Ltd;

"Martins Group" means the group of companies of which Martins was a part;

"Martins Final Notice" means the Final Notice dated 15 May 2014 issued by the Authority against Martins for misconduct relating to LIBOR;

"MBO" means the management buy-out in May 2005 in which the Martins Group was taken from public to private ownership;

"NIPs Code" means the Non-Investment Products Code, for Principals and Broking firms in the Wholesale Markets, as in force from time to time over the Relevant Period;

"Operations Committee" means a sub-committee of the Board, which was responsible for the day-to-day running of Martins;

"Panel Bank" means a bank with a place on the administrator of LIBOR's panel (the BBA's panel during the Relevant Period) for contributing LIBOR submissions in one or more currencies;

"Principle(s)" means the Authority's Principles for Businesses;

"Relevant Period" means 2 June 2005 to 27 July 2011, inclusive;

"RP Martin Holdings" means RP Martin Holdings Ltd, the ultimate parent company of the Martins Group;

"Statement of Principle(s)" means the Authority's Statements of Principle for Approved Persons;

"SUP" means the Supervision Sourcebook, part of the Authority's handbook;

"SYSC" means the Senior Management Arrangements, Systems and Controls Sourcebook rules, part of the Authority's handbook;

"TED" means Trio Equity Derivatives, the other UK regulated entity within the Martins Group and which operates as an executing broker in over the counter equity options for its clients;

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

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

"UBS" means UBS AG.

FACTS AND MATTERS

Martins

9. Martins is a voice broking firm, acting for institutional clients transacting in the wholesale financial markets. The firm is organised into various "desks" of Brokers, with each desk specialising in facilitating trades in different currencies and financial products on behalf of its clients.

10. Martins' main role is to bring together counterparties to execute trades in return for commissions and where necessary to provide information to clients. The information Martins provided to its clients included advice as to where it believed the published LIBOR rates would be set on particular days.

11. During the Relevant Period, all significant decisions concerning Martins were made by the Board and a number of sub-committees, including the Audit Committee and the Operations Committee. Legal and regulatory matters such as risk management policies and internal control arrangements were reserved for consideration by the full Board until the establishment of a Risk Committee in late 2010.

12. Martins was by far the most profitable subsidiary within the Martins Group generating an average of 61 percent of group turnover during the Relevant Period.

Martins Final Notice

13. The Martins Final Notice described Martins' breaches of the Principles in relation to LIBOR. Martins breached Principle 5 (Market Conduct) and Principle 3 (Systems and Controls).

14. In respect of Principle 5, the Martins Final Notice described how Brokers at Martins colluded with a Trader at UBS as part of a coordinated attempt to influence JPY LIBOR submissions made by Panel Banks. Martins entered into "wash trades" (i.e. risk free trades that cancelled each other out and which had no legitimate commercial rationale) with UBS, in order to facilitate corrupt brokerage payments to Brokers as a reward for their attempts to influence the JPY LIBOR submissions at Panel Banks. Three Brokers (one of whom was a manager) participated in this manipulative scheme.

15. In respect of Principle 3, the Martins Final Notice concluded that:

    (1) Martins had minimal policies and procedures in place to govern individual Broker behaviour and those that were in place were inadequately designed and easily circumvented;

    (2) Martins had no effective compliance function, with limited training for Brokers and no effective compliance monitoring to detect Broker misconduct. There was an absence of effective transaction monitoring procedures, such as might reasonably have detected the wash trades; and

    (3) Martins' reporting lines and responsibilities were unclear at every level, including amongst senior management, meaning that responsibility for compliance oversight of individual Brokers was unclear and effectively uncontrolled as a result.

Mr Caplin

16. Mr Caplin entered the wholesale broking industry in 1980 and worked for another broking firm before joining Martins as a Manager in 1992. He was promoted to Managing Director with overall responsibility for all brokerage activities at the firm and was approved as a CF1 (Director) from 1 December 2001.

17. Mr Caplin was a member of the MBO team which took the Martins Group from public to private ownership in May 2005. Mr Caplin received a 19.65 percent shareholding in the Martins Group. Following the MBO, Mr Caplin assumed the position of Group CEO.

18. From 2 June 2005 until the end of the Relevant Period, Mr Caplin was approved to perform the CF3 (Chief Executive) function at Martins. From 2 June 2005 until 31 October 2007, Mr Caplin was approved to perform the CF8 (Apportionment and Oversight) function. Mr Caplin was also approved as a CF1 (Director) throughout the Relevant Period. Mr Caplin left the Martins Group in May 2013.

Mr Caplin's influence on culture at Martins

19. Mr Caplin was the dominant personality at the firm and his authority over the broking floor was absolute. Mr Caplin was also intimately involved with all matters on the broking floor such that "*nothing could move without Mustard* [Mr Caplin] *knowing*". Consequently, the culture on the broking desks was established and overseen by Mr Caplin.

20. Following his appointment as Group CEO, Mr Caplin had a distinct vision for Martins, driven by the fact that it was small by industry standards and the threat of competitors poaching staff was constant. Mr Caplin sought to engender loyalty amongst the staff and operated an inclusive management style. Mr Caplin proposed, and the firm accepted, the distribution of equity to the Brokers. Mr Caplin believed that this would encourage compliant behaviour as it gave the Brokers a direct interest in the long term health of the firm.

21. Mr Caplin was keen to foster a friendlier, more paternalistic culture than at larger competitors and Martins was sold to new employees as "*You're joining part of a family. We're working together as a family".* Mr Caplin also operated with an "*open door*" policy so that Brokers were free to approach him directly at all times. Mr Caplin thought this was part of Martins' employee appeal and was reluctant to add any unnecessary layers of management.

22. Mr Caplin was generally resistant to any interference in the day-to-day activities of the broking floor and was protective of the close personal relationships he had cultivated with the Brokers. He considered that Martins' business was low risk from a compliance perspective and he resisted efforts by the firm's compliance officer, Jeremy Kraft ("Mr Kraft"), to involve himself directly in communicating with the Brokers.

23. Mr Caplin's reasoning for resisting Mr Kraft's involvement with the Brokers was that he felt that Mr Kraft did not understand Martins' business and told Mr Kraft that any interventions from him may "*destabilise*" the desks. Mr Caplin thought that compliance added little value to the business and saw it as unnecessary administration. For example, a senior Manager stated that the compliance department had: "*nothing to do with that front office"* and he said that any issue with Broker conduct was sorted out amongst the Brokers themselves.

24. Knowing that Martins was unable to compete with larger broking firms on salary, Mr Caplin and the firm placed emphasis on ensuring Broker loyalty. The firm's incentive structure, including the equity referred to above, was designed accordingly. In addition to their basic salary, Brokers were paid a bonus of 30 percent net of brokerage commission revenue, above a minimum threshold.

25. When assessing Broker performance, Mr Caplin looked primarily at that Broker's commission and the strength of that Broker's earning potential via his client relationships. Mr Caplin judged a Manager primarily on the financial success of his desk and Managers were appointed for their ability to maximise revenue.

26. This culture focussed on revenue generation ultimately proved to be at the expense of regulatory compliance. Brokers and Managers were incentivised to focus on revenue and there were no rewards for adherence to internal controls or penalties for non-compliance.

27. The compliance culture at Martins was complacent and Mr Caplin did nothing to address this complacency. Managers close to the broking business felt that: "*good common sense could apply and, as and when any issue arose, this would be raised with the appropriate people*." Mr Caplin himself considered that experienced Brokers would know what was required of them from a compliance perspective.

28. In practice, by resisting any meaningful interaction between Martins' broking desks and its compliance function, Mr Caplin assumed personal responsibility for all aspects of desk oversight, including monitoring for Broker misconduct.

Mr Caplin's oversight of systems and controls at Martins

2005 Review

29. Following the MBO in May 2005, the firm engaged the Compliance Consultancy to provide it with outsourced compliance assistance, including implementing a training programme for brokers and directors, conducting quarterly compliance monitoring and devising procedures in order to ensure Martins' compliance with the SYSC rules.

30. It was intended that this Compliance Consultancy would provide support to Mr Kraft, who lacked previous compliance experience and was new to the wholesale broking industry. Mr Kraft was also responsible for a range of other Martins Group functions, notably finance and there were no other staff with any compliance experience.

31. Mr Caplin supported this arrangement and also suggested that the Compliance Consultancy conduct a review of the compliance arrangements at Martins in order to assess gaps in its compliance systems and controls. Mr Caplin, saw this review as a "*major plank in the evolution of the business post buyout*". Mr Kraft subsequently instructed the Compliance Consultancy to undertake this work.

32. In September 2005, the Compliance Consultancy conducted this review and documented its findings in a memo dated 28 September 2005 (the 2005 Review). The key findings were as follows:

    (1) no compliance manual existed;

    (2) no formal compliance monitoring programme existed;

    (3) there was no record of any formal training and competence process; and

    (4) there was no record of a compliance risk review having been conducted. The firm was required to do this as a matter of urgency in order to comply with SYSC. The firm's CF8 (i.e. Mr Caplin) was then required to apportion responsibilities to mitigate risks identified.

33. The 2005 Review concluded that:

> "*Both Martins and TED are fully aware of their regulatory status and are committed to conducting their business in a compliant manner. While this commitment is evident in talking to individuals, it has not been supported by any consistent documentation setting out policies and procedures required to inform the process or addressing the various ongoing requirements in detail. It would be difficult for either or both companies [i.e. Martins and/or TED] to demonstrate to the [Authority] that the business is compliant in a number of areas. This is a matter of concern currently and makes it difficult to convert to the new requirements imposed by MiFid. Management should be setting out to put in place a risk review and the processes necessary to demonstrate compliance with the SYSC rules as a matter of urgency.*"

34. The 2005 Review was presented to the Board, which included Mr Caplin, on 24 October 2005. Mr Caplin and his fellow Board members did not challenge the findings.

35. In the months following the 2005 Review, Mr Caplin did not act on the recommendation that the firm was required to undertake a risk review and

apportion responsibilities, even though the 2005 Review expressly stated that it was his responsibility (as Martins' CF8) to ensure that this was done.

36. Mr Caplin also took no steps to ensure that the other findings of the 2005 Review were actioned by Mr Kraft. This was despite Mr Caplin having suggested the 2005 Review, Mr Kraft's inexperience and his own personal regulatory responsibilities as the firm's most senior executive.

2006 Review

37. Prior to the firm's external audit in December 2006, the Board agreed to engage the same Compliance Consultancy to prepare a follow-up review of Martins' systems and controls (the 2006 Review).

38. The findings of the 2006 Review were less critical than those of the 2005 Review. In large part, this was because Mr Kraft had agreed with the Compliance Consultancy that a heavily critical early draft, which Mr Caplin did not see, be softened. However, the 2006 Review, even in its final form, described weaknesses in Martins' systems and controls. Furthermore, Mr Caplin should have been aware that, in fact, no significant improvements in Martins' systems and controls had been effected since the 2005 Review. In spite of this, Mr Caplin also took insufficient steps to follow up on the 2006 Review to ensure that Mr Kraft addressed the serious deficiencies identified by the Compliance Consultancy.

39. Following the 2006 Review and until the end of the Relevant Period, Mr Caplin took little interest in compliance matters at the firm. He failed to adequately question Mr Kraft on his compliance activities and did not generally engage in compliance matters. Instead, Mr Caplin thought it sufficient to rely upon quarterly board updates presented by Mr Kraft, along with Mr Kraft's updates at the Operations Committee. However, these updates contained little or no discussion of potential risks for Martins or consideration of appropriateness of Martins' systems and controls, focussing primarily on other issues relating to the Martins Group.

40. Over the Relevant Period Mr Caplin also relied on the Audit Committee of Martins' holding company for oversight of compliance at Martins. However, Martins' holding company was unregulated and, in practice, the members of its Audit Committee had no experience in the oversight of a regulated financial services firm. The Audit Committee believed at all times that it was Mr Caplin who was responsible for monitoring Martins' compliance officer and that Mr Caplin was ultimately responsible for ensuring that the issues identified in the 2005 Review and 2006 Review were rectified.

Mr Caplin's role in monitoring Brokers

41. As described above, over the Relevant Period Mr Caplin assumed total *de facto* responsibility for monitoring and oversight of Martins' broking desks. The majority of the firm's Brokers had no interaction with Martins' compliance function during the Relevant Period. Having assumed responsibility for monitoring and overseeing Martins' Brokers, Mr Caplin should have taken steps to ensure that Brokers complied with the firm's own compliance policies, with the NIPs Code, which the firm had adopted as its code of conduct and with regulatory requirements. However, over the Relevant Period Mr Caplin took no steps to ensure that Brokers and Managers were aware of, or complied with, their conduct responsibilities.

42. During the Relevant Period, Martins had only a limited number of written compliance policies. From February 2008, the firm did have a compliance manual. However, Martins' compliance manual was not distributed within Martins until, at

the earliest, September 2009, when it was added to Martins' intranet site. The compliance manual was not added to induction packs for Martins' new joiners until 2011. Furthermore, there was no formal training for Brokers on market conduct until after the end of the Relevant Period.

43. As well as an absence of formal compliance policies, the practice at Martins, which Mr Caplin had failed to address, prevented effective monitoring of Broker conduct. The desk structure at Martins was effectively a franchise arrangement where each desk was expected to work as its own independent business, with each desk, ultimately and informally, reporting to Mr Caplin. In practice, oversight of Brokers was left almost entirely to Managers.

44. In the absence of any formal controls, the firm's ability to detect misconduct depended on Managers paying close attention to trading activities on the desks and accordingly, on their physical presence on the desks. However, Mr Caplin failed to properly oversee this. Neither Mr Caplin nor Martins' compliance function provided Martins' Managers with any guidance as to what was expected of them in their oversight capacity. They had no job descriptions, received no training and their managerial performance was judged primarily on their success in maximising desk revenue.

45. As a result, a very weak compliance culture developed on Martins' broking desks. For example, over the Relevant Period at least one Manager was regularly absent from his desk for large portions of the trading day. The management of that particular desk was described as "*shambolic*" by a member of the senior management team and Brokers were regularly left unsupervised. Mr Caplin was aware of the issues with this Manager and attempted to address them informally rather than invoke the firm's formal disciplinary procedures. Mr Caplin's actions were ineffective as the issues with this Manager persisted even after Mr Caplin's intervention.

46. The practical arrangements on the broking desks at Martins, and Mr Caplin's lack of oversight, allowed the misconduct described in the Martins' Final Notice to flourish. For example, Managers did not monitor their desks for particularly large commissions such as the commission generated by the wash trades described at paragraphs 4.63 to 4.71 of the Martins Final Notice.

47. Furthermore, the system of desk oversight also took no account of the risk that Managers would engage in misconduct. Therefore in circumstances where Managers were themselves complicit in the misconduct, it went undetected. For example, and as explained at paragraph 4.77 of the Martins Final Notice, at least two Managers colluded in attempts to manipulate the published JPY LIBOR rate.

Inducements

48. Mr Caplin knew that, due to the commission-based nature of the industry, the success of which depended on client relationships, there was a risk that Brokers would offer or accept corrupt inducements to do business in the course of their broking activities.

49. Industry standards over the Relevant Period (the NIPs Code and the IPC) required broking firms to adopt policies in respect of inducements and to ensure that they had controls in place to detect inducements. These standards made clear that a firm should have controls to ensure that its Brokers did not accept any fee or commission from a Trader contrary to the best interests of its client banks.

50. In practice, having effectively prevented Martins' compliance function from overseeing the broking desks, Mr Caplin personally assumed responsibility for monitoring the risk of inducements being offered or received on Martins' broking desks. However, Mr Caplin took no steps to ensure that commission income was monitored for spikes or irregularities. Such monitoring may have detected the corrupt wash trades described at paragraph 4.63 to 4.71 of the Martins Final Notice.

51. Ultimately Martins did not introduce a coherent policy on inducements until 2011.

Entertainment

52. Mr Caplin also knew that over the Relevant Period there was also a risk that, in breach of industry guidance such as the NIPs Code, Brokers would provide entertainment to clients by way of inducement to win or retain business. This practice is prohibited by the NIPs Code.

53. However, again, although he had assumed personal responsibility for oversight of the broking desks, Mr Caplin took no steps to ensure that entertaining expenses were adequately monitored for this risk. Monitoring of value of entertainment expenses did not include any assessment of the propriety of those expenses. On occasion Traders would repay Brokers on one particular desk for entertainment by executing trades which those Traders would not otherwise have executed. One Broker regularly engaged in this practice and in a 12 month period:

    (1) entertained one particular client (the Trader identified as Trader B in the Martins Final Notice) on an almost weekly basis to an average cost of approximately £400 per week; and

    (2) entertained the same client on three overseas trips to the United States and Singapore for various sporting events.

54. This practice also extended to Brokers paying for the personal entertaining expenses of Trader clients, a practice that is expressly forbidden by the NIPs Code. For example, a Broker, with the approval of his Manager, paid for a portion of his client's holiday expenses. Although Mr Caplin was not specifically aware of these practices, he failed to ensure that adequate controls were in place to prevent such breaches of the NIPs Code

55. Managers were aware of these practices and condoned a culture at Martins whereby lavish entertaining was allowed in exchange for the Trader client repaying the entertaining in multiples of commission income. To the extent that he was aware of such entertaining taking place, Mr Caplin took no steps in this regard.

56. This practice featured in Martins' LIBOR misconduct. As described at paragraphs 4.63 to 4.71 of the Martins Final Notice, Trader A entered into wash trades in return for Brokers assisting him to manipulate JPY LIBOR. On occasion counterparties to these wash trades were Traders at other banks who participated in the trades upon the promise of entertainment funded by Martins, such as trips to Las Vegas.

57. However, Mr Caplin took insufficient steps to ensure that entertaining expenses were adequately monitored for this risk.

Other compliance matters

58. Despite the recommendations of the 2005 Review and 2006 Review, from 2007 to 2011 the following further gaps existed in Martins' systems and controls:

(1) the compliance manual was not finalised until February 2008 and was not circulated internally until September 2009. Even when finalised, it did not mention key guidance such as the NIPs Code or address key risks such as inducements. Mr Caplin was aware that no timely steps had been taken to finalise the compliance manual after the 2006 Review but did not sufficiently challenge Mr Kraft on this matter;

(2) the firm had no market conduct policies;

(3) with the exception of the introduction of online AML training in late 2008, the firm introduced no broker training after the 2006 Review. Mr Caplin did not accept that any formal training was necessary as he thought that Managers were sufficiently experienced to understand their regulatory responsibilities and to embed these on their desks. As a consequence, matters of Broker training were left to Managers to deal with on the job in an *ad hoc* manner;

(4) the firm had no formal assessment of the competence of Brokers and Broker performance was judged on revenue alone. Mr Caplin was heavily involved in the decision making process to decide Brokers' bonuses and pay increases and the firm reached decisions primarily on the basis of revenue; and

(5) there was no formal assessment of the competence of Martins' approved persons and there was no training or no job descriptions for approved persons. As a consequence, many of those who held controlled functions at Martins did so without properly understanding their responsibilities. This was an issue identified in the 2005 Review and again in the 2006 Review as an issue for the firm's CF8. Despite holding the CF8 function for a period, Mr Caplin failed to resolve this issue.

Compliance Improvements

59. In late 2009, Mr Caplin was involved in a decision to recruit a dedicated compliance professional who was eventually appointed in early 2010. Following this appointment, certain compliance improvements were made at the firm including the establishment of a risk committee in October 2010. However, these changes were piecemeal and did not address the absence of Broker oversight.

60. It was only when the firm experienced regulatory scrutiny in 2011 as a result of suspected LIBOR misconduct that the approach to compliance at Martins changed. From about July 2011, the new compliance professional was allowed to effect improvements without significant restriction. Thereafter detailed controls were introduced at Martins along with a compliance monitoring programme and a compliance training programme for all Brokers and Managers at Martins. Mr Caplin did not resist these changes.

61. However, Martins lack of adequate compliance controls prior to July 2011 is attributable, in part, to Mr Caplin's failure to discharge his responsibility to ensure that there were adequate compliance arrangements at the firm.

FAILINGS

62. The regulatory provisions relevant to this Notice are referred to in Annex A.

63. As the firm's CEO and most senior member of staff, holding the CF3 and CF1 controlled functions, Mr Caplin was responsible for the conduct of the firm's regulated business. As the firm's CF8 and person responsible for apportionment and oversight until 31 October 2007, Mr Caplin was specifically responsible for:

    (1) ensuring that there was an appropriate apportionment of significant responsibilities amongst Martin's directors; and

    (2) establishing and maintaining systems and controls, including a clear organisational structure with well defined, transparent and consistent lines of responsibility and effective risk management.

64. Mr Caplin was the most experienced member of Martins' senior management team and the only individual with prior experience as an approved person.

65. However, despite his position of responsibility, Mr Caplin failed to take sufficient steps to address issues of compliance that were his responsibility and ensure the implementation of recommended improvements to Martins' systems and controls by the firm's compliance function.

66. Over the Relevant Period Mr Caplin presided over a firm with an extremely weak compliance culture. Ultimately the compliance risks that he failed to address crystallised in the firm's collusion in the manipulation of LIBOR, as described in the Martins Final Notice. His specific failings are set out below.

Breach of Statement of Principle 7

67. Mr Caplin failed to take reasonable steps to ensure that Martins complied with the relevant requirements and standards of the regulatory regime by, in general terms, failing to identify and remedy seriously inadequate systems and controls at Martins and, specifically:

    (1) despite being responsible for its engagement, failing to ensure that the advice of the Compliance Consultancy was implemented in a timely manner, or at all;

    (2) despite being responsible for oversight of the firm's compliance officer, Mr Kraft, failing to question him on his work and on the adequacy of compliance resources at the firm;

    (3) despite being responsible for apportionment and oversight at Martins, failing to ensure that the firm carried out an adequate compliance risk review for Martins' business;

    (4) despite having overall responsibility for Broker conduct, failing to ensure that Brokers were aware of and complied with regulatory and industry standards;

    (5) failing to identify and remedy improper client entertaining by Brokers; and

    (6) failing to identify and remedy the lack of controls to prevent the risk of corrupt inducements being offered or accepted by Brokers in the course of their broking activities.

Impact of Mr Caplin's failings

68. Mr Caplin's failings contributed to a culture at Martins that permitted LIBOR manipulation to take place and enabled the misconduct described in the Martins Final Notice to go undetected and continue unabated over a prolonged period. For example:

    (1) there were no controls that could detect unusual transactions, such as the wash trades described at paragraphs 4.63 to 4.71 of the Martins Final Notice;

    (2) the lack of a coherent inducements policy also created risks that crystallised in the wash trades related to LIBOR. As described above and at paragraphs 4.70 and 4.71 of the Martins Final Notice, counterparties to the wash trades sometimes participated in those improper trades upon the promise of entertainment funded by Martins; and

    (3) Brokers (and their Managers) were not trained in matters of market conduct and their competence was not assessed. For most of the Relevant Period Martins had no compliance manual and, even when it was introduced, it did not cover key industry guidance on matters of market conduct. This created a clear risk that Brokers would not follow legitimate market practice and regulatory requirements in their day-to-day activities.

69. The Authority's regulatory objectives include protecting and enhancing the integrity of the UK financial system. Mr Caplin's breaches of Statement of Principle 7 jeopardise that objective. Having regard to the facts and matters, the Authority considers it appropriate and proportionate in all the circumstances to take disciplinary action against Mr Caplin.

Lack of fitness and propriety

70. The relevant sections of FIT are set out in the Annex to this Notice. FIT 1.3.1G states that the Authority will have regard to, among other things, a person's competence and capability when assessing the fitness and propriety of a person to perform a particular controlled function. As result of the failings described above, the Authority considers that Mr Caplin's conduct has fallen short of minimum regulatory standards. He is not a fit and proper person to carry out any significant influence function.

SANCTION

Financial penalty

71. The Authority imposes on Mr Caplin a financial penalty of £210,000.

72. The Authority's policy on the imposition of financial penalties and public censures is set out in DEPP. The detailed provisions of DEPP are set out in Annex A.

73. In determining the financial penalty, the Authority has had regard to this policy as it was in force at the time of the misconduct. On 6 March 2010, the Authority adopted a new penalty-setting regime. Since the gravamen of Mr Caplin's failings occurred before 6 March 2010, the Authority has applied the provisions that were in place before that date. References to paragraphs of DEPP below are references to DEPP as it stood between November 2007 and March 2010.

74. The Authority has also had regard to the provisions of Chapter 7 of EG, and to Chapter 13 of ENF relevant to the pre-28 August 2007 part of the Relevant Period.

75. DEPP 6.5.2 lists factors which may be relevant when the Authority determines the level 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.

76. The Authority considers the following DEPP factors to be particularly important in assessing the sanction.

Deterrence – DEPP 6.5.2G(1)

77. 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 significant financial penalty on Mr Caplin is appropriate.

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

78. Mr Caplin's breaches were extremely serious. His failure to discharge his compliance responsibilities at Martins facilitated the manipulative behaviour described in the Martins Final Notice which, in turn, risked undermining the integrity of a key benchmark for the UK and international financial systems.

79. Mr Caplin's failures continued over a period of several years and created systemic weaknesses in Martins' internal controls. Furthermore, Mr Caplin held significant influence functions and was a senior and experienced market professional.

Other DEPP factors

80. In determining financial penalty, the Authority has also taken into account the following factors listed in DEPP:

    (1) although Mr Caplin's actions indicate poor judgement and serious incompetence on his part, he did not act recklessly or deliberately (DEPP 6.5.2G(3));

    (2) Mr Caplin has co-operated fully with the Authority's investigation (DEPP 6.5.2G(8));

    (3) penalties imposed by the Authority on other approved persons for similar behaviour (DEPP 6.5.2G(10)).

Prohibition Order

81. The Authority has had regard to the guidance in Chapter 9 of the Enforcement Guide in imposing a prohibition order on Mr Caplin. The Authority has power to prohibit individuals under section 56 of the Act. The Act states that the Authority may 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.

82. Given the serious failures outlined above, the Authority considers that Mr Caplin's conduct demonstrates a serious lack of competence and capability for an individual performing controlled functions involving the exercise of significant influence, and

that, if he performed such functions, he would pose a serious risk to confidence in the financial system. The Authority therefore prohibits Mr Caplin from performing any significant influence function.

PROCEDURAL MATTERS

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

84. This Final Notice is given under, and in accordance with section 390 of the Act.

Manner of and time for Payment

85. The financial penalty must be paid in full by Mr Caplin to the Authority by no later than 5 February 2015, 14 days from the date of the Final Notice.

If the financial penalty is not paid

86. If all or any of the financial penalty is outstanding on 6 February 2015, the Authority may recover the outstanding amount as a debt owed by Mr Caplin and due to the Authority.

Publicity

87. 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.

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

Authority contacts

89. For more information concerning this matter generally, contact Patrick Meaney (direct line: 020 7066 7420) or Maria O'Regan (direct line: 020 7066 7544) at the Authority.

Therese Chambers
Project Sponsor
Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX A

GUIDANCE AND POLICY TO STATUTORY PROVISIONS AND RULES

RELEVANT STATUTORY PROVISIONS

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.

2. Section 66 of the Act provides that the Authority may take action against a person if it appears to the Authority that he is guilty of misconduct and the Authority is satisfied that it is appropriate in all the circumstances to take action against him. A person is guilty of misconduct if, while an approved person, he has failed to comply with a statement of principle issued under section 64 of the Act, or has been knowingly concerned in a contravention by a relevant authorised person of a relevant requirement imposed on that authorised person.

3. Section 56 of the Act provides that the Authority may make an order prohibiting an individual from performing a specified function, any function falling within a specified description or any function, if it appears to the Authority that that 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 a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity. Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description, or all regulated activities.

RELEVANT REGULATORY PROVISIONS

Statements of Principle

4. The Authority's Statements of Principle and Code of Practice for Approved Persons ("APER") have been issued under section 64 of the Act.

5. APER also contains descriptions of conduct which, in the opinion of the Authority, fails to comply with a particular Statement of Principle to which that conduct relates.

6. APER 3.1.3G states that, when establishing compliance with, or breach of, a Statement of Principle, account will be taken of the context in which a course of conduct was undertaken, the circumstances of the individual case, the characteristics of the particular controlled function and the behaviour expected in that function.

7. APER 3.1.4G states that an approved person will only be in breach of a Statement of Principle when he is personally culpable. Personal culpability arises where an approved person's conduct was deliberate or where the approved person's standard of conduct was below that which would be reasonable in all the circumstances.

8. APER 3.1.6G provides that APER (and in particular the specific examples of behaviour which may be in breach of a generic description of conduct in the code) is not exhaustive of the kind of conduct that may contravene the Statements of Principle.

9. APER 3.2.1E states that in determining whether or not the particular conduct of an approved person within his controlled function complies with the Statements of Principle, the following are factors which, in the opinion of the Authority, are to be taken into account:

   (1) whether that conduct relates to activities that are subject to other provisions of the Handbook; and

   (2) whether that conduct is consistent with the requirements and standards of the regulatory system relevant to his firm.

Statement of Principle 7

10. Statement of Principle 7, states that 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.

11. APER 3.3.1 E provides that in determining whether or not the conduct of an approved person performing a significant influence function complies with Statements of Principle 5 to 7, the following are factors which, in the opinion of the Authority, are to be taken into account:

   (1) whether he exercised reasonable care when considering the information available to him;

   (2) whether he reached a reasonable conclusion which he acted on;

   (3) the nature, scale and complexity of the firm's business;

   (4) his role and responsibility as an approved person performing a significant influence function; and

   (5) the knowledge he had, or should have had, of regulatory concerns, if any, arising in the business under his control.

12. The following evidential provisions and guidance in APER 4.7 are relevant to the failure by an approved person to comply with Statement of Principle 7:

   (1) APER 4.7.3E - 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, and failing to oversee the establishment and maintenance of those systems and controls;

   (2) APER 4.7.4E – 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;

   (3) APER 4.7.5E – Failing to take reasonable steps adequately to inform himself about the reason why significant breaches (whether suspected or actual) of the relevant requirements and standards of the regulatory system in respect of its regulated activities may have arisen;

(4) APER 4.7.7E - Failing to take reasonable steps to ensure that procedures and systems of control are reviewed and, if appropriate, improved, following the identification of significant breaches (whether suspected or actual) of the relevant requirements and standards of the regulatory system relating to its regulated activities;

(5) APER 4.7.8E – Behaviour of the type referred to in APER 4.7.7E includes, but is not limited to: (1) unreasonably failing to implement recommendations for improvements in systems and procedures; (2) unreasonably failing to implement recommendations for improvements to systems and procedures in a timely manner;

(6) APER 4.7.10E - In the case of an approved person performing a significant influence function responsible for compliance under SYSC 3.2.8 R3, failing to take reasonable steps to ensure that appropriate compliance systems and procedures are in place falls within APER 4.7.2E;[1]

(7) APER 4.7.11E - The Authority expects an approved person performing a significant influence function to take reasonable steps both to ensure his firm's compliance with the relevant requirements and standards of the regulatory system and to ensure that all staff are aware of the need for compliance;

(8) APER 4.7.12G - An approved person performing a significant influence function need not himself put in place the systems of control in his business (APER 4.7.4E). Whether he does this depends on his role and responsibilities. He should, however, take reasonable steps to ensure that the business for which he is responsible has operating procedures and systems which include well-defined steps for complying with the detail of relevant requirements and standards of the regulatory system and for ensuring that the business is run prudently. The nature and extent of the systems of control that are required will depend upon the relevant requirements and standards of the regulatory system, and the nature, scale and complexity of the business;

(9) APER 4.6.13G - Where the approved person performing a significant influence function becomes aware of actual or suspected problems that involve possible breaches of relevant requirements and standards of the regulatory system falling within his area of responsibility, then he should take reasonable steps to ensure that they are dealt with in a timely and appropriate manner (APER 4.7.7E). This may involve an adequate investigation to find out what systems or procedures may have failed and why. He may need to obtain expert opinion on the adequacy and efficacy of the systems and procedures; and

(10) APER 4.7.14G - Where independent reviews of systems and procedures have been undertaken and result in recommendations for improvement, the approved person performing a significant influence function should ensure that, unless there are good reasons not to, any reasonable recommendations are implemented in a timely manner (APER 4.7.10E). What is reasonable will depend on the nature of the inadequacy and the cost of the improvement. It will be reasonable for the approved person

[1] APER 4.7.2E provides that "*In the opinion of the [Authority] conduct of the type described in APER 4.7.3 E, APER 4.7.4 E, APER 4.7.5 E, APER 4.7.7 E, APER 4.7.9 E or APER 4.7.10 E does not comply with Statement of Principle 7 (APER 2.1.2 P).*"

performing a significant influence function to carry out a cost benefit analysis when assessing whether the recommendations are reasonable.

FIT

13. FIT sets out the criteria that the Authority will consider when 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.

14. FIT 1.3.1G states 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.

Prohibition order

15. The Authority's policy in relation to prohibition orders is set out in Chapter 9 of EG. The provisions of EG set out below are those which have been in force since 1 April 2013.

16. 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 statutory objectives. The Authority may exercise this power 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.

17. 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]*. As is noted below 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.*"

18. 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.*"

19. EG 9.8 to 9.14 set out guidance on the Authority's approach to making prohibition orders against approved persons.

20. 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.

21. 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).*
>
> *…*
>
> *(5) The relevance and materiality of any matters indicating unfitness.*
>
> *(6) The length of time since the occurrence of any matters indicating unfitness.*
>
> *(7) The particular controlled function the approved person is (or was) performing, the nature and activities of the firm concerned and the markets in which he operates.*

22. EG 9.10 states:

> *"The* [Authority] *may have regard to the cumulative effect of a number of factors which, when considered in isolation, may not be sufficient to show that the individual is not fit and proper to continue to perform a controlled function or other function in relation to regulated activities. It may also take account of the particular controlled function which an approved person is performing for a firm, the nature and activities of the firm concerned and the markets within which it operates."*

23. EG 9.11 states:

> *"Due to the diverse nature of the activities and functions which the* [Authority] *regulates, it is not possible to produce a definitive list of matters which the* [Authority] *might take into account when considering whether an individual is not a fit and proper person to perform a particular, or any, function in relation to a particular, or any, firm."*

24. EG 9.13 states:

> *"Certain matters that do not fit squarely, or at all, within the matters referred to above may also fall to be considered. In these circumstances the* [Authority] *will consider whether the conduct or matter in question is relevant to the individual's fitness and propriety."*

25. An example of the types of behaviour which have previously resulted in the Authority deciding to issue a prohibition order or withdraw the approval of an approved person, set out in EG 9.12, includes "*[s]erious lack of competence*" and "*[s]erious breaches of the Statements of Principle"*.

26. Before 28 August 2007, the Authority's policy in relation to prohibition orders was set out in Chapter 8 of ENF. The provisions in ENF are substantially the same as those in EG.

Financial penalty

27. 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 31 March 2010.

28. 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.

29. 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.

30. 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. DEPP 6.5.2(3) states that the Authority may take account of the extent to which the breach was deliberate or reckless.

31. Chapter 6 of DEPP sets out the Authority's statement of policy with respect to the imposition and amount of financial penalties under the Act.

32. Before 28 August 2007, the Authority's approach to deciding whether to impose a financial penalty, and the factors to determine the level of that penalty, are listed in chapter 13 of ENF.

33. ENF 13.3.3 G stated: "*The factors which may be relevant when the* [Authority] *determines the amount of a financial penalty for a firm or approved person include the following.*" Some of the relevant factors are set out below.

34. ENF 13.3.3 G (1) related to "*the seriousness of the misconduct or contravention*" and stated: "*In relation to the statutory requirement to have regard to the seriousness of the misconduct or contravention, the* [Authority] *recognises the need for a financial penalty to be proportionate to the nature and seriousness of the misconduct or contravention in question. The following may be relevant:*

    (a) *in the case of an approved person, the [Authority] must have regard to the seriousness of the misconduct in relation to the nature of the Statement of Principle or requirement concerned;*

    (b) *the duration and frequency of the misconduct or contravention…;*

    (c) *…*

    (d) *the impact of the misconduct or contravention on the orderliness of financial markets, including whether public confidence in those markets has been damaged*

    (e) *the loss or risk of loss caused to consumers or other market users."*

35. ENF 13.3.3 G (3) related to "*Whether the person on whom the penalty is to be imposed is an individual, and the size, financial resources and other circumstances*

of the firm or individual" and stated: *"This will include having regard to whether the person is an individual, and to the size, financial resources and other circumstances of the… approved person. The* [Authority] *may take into account whether there is verifiable evidence of serious financial hardship or financial difficulties if the… approved person were to pay the level of penalty associated with the particular contravention or misconduct. The* [Authority] *regards these factors as matters to be taken into account in determining the level of a penalty, but not to the extent that there is a direct correlation between those factors and the level of penalty. The size and financial resources of [an] approved person may be a relevant consideration, because the purpose of a penalty is not to render [an] approved person insolvent or to threaten [his] solvency. Where this would be a material consideration, the* [Authority] *will consider, having regard to all other factors, whether a lower penalty would be appropriate; this is most likely to be relevant to… approved persons with lower financial resources; but if [an] individual reduces [his] solvency with the purpose of reducing [his] ability to pay a financial penalty, for example by transferring assets to third parties, the* [Authority] *will take account of those assets when determining the amount of a penalty."*

36. ENF 13.3.3 G (5) related to "*conduct following the contravention*" and stated:

> *"The* [Authority] *may take into account the conduct of the… approved person in bringing (or failing to bring) quickly, effectively and completely the contravention or misconduct to the* [Authority]*'s attention and:*
>
> (a) *the degree of cooperation the… approved person showed during the investigation of the contravention or misconduct (where [an] approved person has fully cooperated with the* [Authority]*'s investigation, this will be a factor tending to reduce the level of financial penalty);*
>
> (b) *any remedial steps taken since the contravention or misconduct was identified, including identifying whether consumers suffered loss, compensating them, taking disciplinary action against staff involved (if appropriate), and taking steps to ensure that similar problems cannot arise in the future."*

ANNEX B

RELEVANT CODES OF CONDUCT

IPC

1. Until being revoked on 31 October 2007, the Inter-Professionals Code (the "IPC") in the Authority's Handbook outlined acceptable market conduct for brokers and arrangers operating in the wholesale markets.

2. The IPC contained the following provision in relation to inducements:

> *"A firm should take reasonable steps to ensure that it, or any person acting on its behalf, does not offer, give, solicit or accept an inducement if it is likely to conflict to a material extent with any duty which a recipient firm owes to another person. Inducement can include entertainment".*

NIPs Code

3. The Non-Investment Products Code ("NIPs Code") sets out rules of good market practice for market participants who trade in non-investment products in the wholesale markets. This includes the forward foreign exchange market.

4. While the products covered in the NIPs Code are not covered by the Authority's Handbook, the Authority expects firms to take due account of the NIPs code when conducting business in products covered by the Code. Importantly, non-compliance with the Code may raise issues such as the firm's integrity or competence.

5. The NIPs Code contains the following General Standards:

> *"II GENERAL STANDARDS*
>
> *Firms and their employees should act in accordance with the spirit as well as the letter of the Code when undertaking, arranging or advising on transactions in the wholesale markets. Managers of firms should ensure that the obligations imposed on them and their staff by the general law are observed. Management and staff should also take account of any relevant rules and codes of practice of regulatory bodies, such as section 3.4 of the IPC (MAR 3).*
>
> *Responsibilities of the firm*
>
> *1. All firms are expected to act in a manner consistent with the Code so as to maintain the highest reputation for the wholesale markets in the United Kingdom.*
>
> *2. Relevant staff should be familiar with the Code, conduct themselves at all times in a thoroughly professional manner and undertake transactions in a way that is consistent with the procedures set out in this code.*
>
> *3. All firms are responsible for the actions of their staff. This responsibility includes:*
>
> *- ensuring that any individual who commits the firm to a transaction has the necessary authority to do so;*
>
> *- ensuring that employees are adequately trained in the practices of the markets in which they deal/broke; and are aware of their own, and their firm's responsibilities. For example, inexperienced dealers should not rely on a broker*

to fill gaps in their training or experience; to do so is clearly not the broker's responsibility;

- ensuring staff are made aware of and comply with any other relevant guidance that may from time to time be issued, which supplements or replaces this code, and;

- ensuring that employees comply with any regulatory requirements that may be applicable or relevant to a firm's activities in the wholesale markets."

6. Following the revocation of the IPC, the introduction to the General Standards was updated to refer to the General Principles and SYSC in place of the IPC.

7. In order to comply with these General Standards, firms are required to implement policies and controls to ensure that staff are aware of and adhere to the NIPs Code and other regulatory requirements such as the General Principles and SYSC.

8. The NIPs Code contains the following provision in relation to inducements:

"A firm should establish a policy to ensure that neither it nor its employees should offer, give, solicit or accept any inducement from third parties. Where entertainment or gifts are offered in the ordinary course of business, management should:

i. establish a policy towards the giving/receiving of entertainments and gifts;

ii. take reasonable steps to ensure that the policy is observed; and

iii. deal with gifts judged to be excessive but which cannot be declined without giving offence.

Management may wish to consider the following points in formulating a policy on receiving and giving entertainment and gifts:

i. policies should contain specific reference to the appropriate treatment for gifts (given and received). This policy should specifically preclude the giving (or receiving) of cash or gifts that are readily convertible into cash;

ii. in determining whether the offer of a particular gift or form of entertainment might be construed as excessive, management should bear in mind whether it could be regarded as an improper inducement, either by the employer of the recipient or the supervisory authorities. Any uncertainty should be cleared ***in advance*** *with management at the recipient firms; and,*

iii. firms should not normally offer entertainment if a representative of the host company will not be present at the event".