FINANCIAL CONDUCT AUTHORITY

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Dear CEO/Director

**Portfolio strategy letter for Financial Advisers and Intermediaries**

Firms are assigned to the Financial Advisers portfolio of firms based on their primary business model. Following our strategy letter in January 2020, this letter provides an update of our view of the key harms in this sector, our expectations of you and a summary of the work we intend to do.

On 27 July 2022, we published the new Consumer Duty Policy Statement (PS22/9) and Finalised Guidance (FG22/5). This sets out the final rules and guidance that will set higher and clearer standards of consumer protection across financial services and requires firms to act to deliver good outcomes for retail customers. A separate communication will be sent in the coming months explaining further the impact the new Consumer Duty will have on Financial Adviser and Intermediaries firms and some examples of how the Consumer Duty outcomes will apply to firms in practice.

**Why financial advisers are a key FCA priority**

Consumers are facing ever-more complex decisions affecting their long-term financial well-being. These include providing for later life, saving for key goals and dealing with unexpected changes in circumstances as well as increasing costs of living and inflation. Financial advisers play a valuable role in helping consumers identify and prioritise between their different needs, recommending suitable solutions to meet them, and providing ongoing support on whether their needs and objectives are being met.

Firm misconduct, such as unsuitable advice, can cause significant and irreversible harm to consumers' financial well-being.

For this portfolio the key objectives include:

- consumers receive good advice, which is suitable for their needs and objectives
- fewer consumers fall victim to pension and investment scams

- fewer firms are unable to pay redress when due as a result of firm failure and/or attempt to avoid liabilities, including through phoenixing
- consumers receiving appropriate services at a cost that is value for money

Our Consumer Investment Strategy published in September 2021 outlined 4 priorities, including reducing scams and action to reduce the FSCS levy. Our Business Plan published in April 2022, included commitments to reduce and prevent serious harms, and set and test higher standards. Our Financial Adviser strategy complements and supports delivery of these priorities.

**Suitable Advice**

Our view of the risks

Providing suitable advice is the mainstay of Financial Advice firms and remains a key focus for our work. This covers all investment advice provided to retail consumers, including pension transfers and retirement income advice.

Since the Government's pension freedom and choice reforms, consumers have had greater flexibility in withdrawing money from their pensions. Ensuring that pensions and other assets sustain consumers as planned throughout their retirement is a key aspect of financial advice. Unsuitable advice at the start, and during retirement, may leave consumers unnecessarily struggling with the impact, both financially and emotionally, as years progress.

Providing suitable advice on a potential transfer of a pension from a defined benefit scheme is complex and requires knowledge, good judgement and attention to detail. In the past, too many firms have not provided an adequate quality of service to consumers and recommended transfers that were not in the best interest of the consumer, resulting in an uncertain and reduced retirement lifestyle. This has been particularly evident in relation to advice to former British Steel Pension Scheme ("BSPS") members, where almost half (46%) of the advice we reviewed was unsuitable.

What we expect of you

Overall firms should be considering the potential causes of unsuitable advice and ensure they are taking necessary steps to appropriately manage or avoid the risks. Where consumers experience unsuitable advice, we see this is often driven by individual behaviours, misconduct, lack of integrity, unmanaged conflicts of interest and weak systems and controls that fail to provide adequate oversight. Firms may consider a regular review of a sample of client files appropriate to check the quality of advice provided and external file reviews can be a useful tool for firms when considering the quality of advice that consumers received.

When recommending a retirement strategy, firms should ensure sufficient consideration is given to potential changes in market conditions and consumer circumstances over the years, in addition to the immediate objectives of the client. It is important consumers are aware of the risks that could impact their planned financial future.

Firms active in providing pension transfer advice should ensure they are aware of our webpage providing important information which complements our rules and guidance on defined benefit pension transfers. This includes the Defined Benefit Advice Assessment Tool (DBAAT) to assist firms in assessing the suitability of personal recommendations.

We have recently announced a consumer redress scheme which will cover firms that have provided advice to former BSPS members. We expect all relevant firms to adhere to the rules of the scheme in a timely and efficient manner, providing redress to consumers who have suffered harm.

What we will do

Retirement income advice will be a focus for us over the next two years as we seek to explore how firms are delivering this and whether consumers are getting suitable advice. We will communicate more details of the specific work planned in the coming weeks. We will act to mitigate any risks or concerns we identify as a result.

We also continue to monitor the pension transfer market through the RMA-M data return and will take necessary action where we see unacceptable levels of unsuitable advice by individual firms.

We will monitor firm compliance with the BSPS scheme to ensure that redress is paid if consumers have suffered financial loss as a result of unsuitable advice to transfer.

**Pension and investment scams**

Our view of the risks

We define scams as investments that don't exist or investments that have no reasonable likelihood of a return, due to excessive internal or inter-firm charges. Such investments or schemes can result in consumers losing a large proportion, if not all, of savings built up over many years. This can have a devastating impact on their finances and lifestyle.

What we expect of you

Firms should always ensure they conduct robust due diligence on any investment they recommend and ensure they fully understand the detail of the product. Firms should be particularly cautious where investment opportunities, containing non-standard assets, illiquid investments or complex structures, are being promoted to consumers, or the firm, from third parties that may be receiving high remuneration for doing so. Advisers must always ensure an investment they are recommending is suitable for their retail clients, including considering their attitude to risk, capacity for loss and the need for diversification within their portfolio.

When recommending investments, we would not normally expect there to be conflicts of interest where the adviser will receive additional benefit or has a connection with the investment recommended. Firms should not recommend investments where there are unmanageable conflicts of interests, and we expect firms to consider the other potential causes of unsuitable advice and ensure all risks are appropriately managed.

We also remind firms of the important role they can play in helping prevent scams by reporting suspicious products or activities they become aware of to us on +44 (0)300 500 0597 by email to firm.queries@fca.org.uk or online at www.fca.org.uk/firms/whistleblowing. The information you provide will be treated in confidence.

What we will do

Through whistleblowing intelligence, data-led internal intelligence or other sources we continue our supervision activities to identify scams and take prompt and assertive action where necessary to stop or prevent further harm to consumers.

**Firm failure and phoenixing**

Firms exit the market for a variety of reasons, including as a result of insolvency. Where this happens, the wind-down should be orderly, in accordance with the firm's wind-down plans. Any adverse impact on the firm's clients mitigated to the extent possible including their ability to complain or claim for poor advice.

Consumers should receive the redress they are due from the firm that provided unsuitable advice. Consumers shouldn't have to rely on the FSCS for payment and other firms shouldn't be subjected to higher levies to meet the FSCS bill. Where firms knowingly or recklessly seek to leave behind liabilities and attempt to restart business elsewhere, including using assets from the original firm, we consider this to be phoenixing.

What we expect of you

In addition to taking steps to maintain the quality of advice and services provided, firms should ensure they have sufficient financial protection against unsuitable advice claims. Professional Indemnity Insurance may provide some protection, but firms must also ensure they hold sufficient eligible capital resources to meet excess and exclusions on the policy. Our handbook sets out specific minimum capital requirements. However, we expect firms to assess their risks in totality and hold sufficient financial resources to cover those risks and potential liabilities, which will often be above the minimum requirements. Our FG 20/1 Our framework: assessing adequate financial resources provides guidance on assessment of adequate financial resources. As part of assessing adequate financial resources, firms should identify the sources of potential harm to consumers and markets that can arise from their activities and conduct, and to estimate their impact. Our Wind-down Planning Guide helps firms assess if they would have adequate resources to wind-down in an orderly manner as well as achieve minimal adverse impact on its clients.

What we will do

As highlighted in our Consumer investment strategy we have continued our work to review the prudential regime for non-MIFID investment advisers and plan to set out further details on this next year.

In the meantime, through ongoing analysis of the financial data we collect from firms, we will continue to engage with individual firms that do not appear to have adequate financial resources and/or increasing potential liabilities.

Where firms are unable to meet their liabilities and accountable individuals seek to phoenix to another firm, we seriously question their fitness and propriety to hold another role that requires FCA approval. If applications are received either for individuals or phoenixed firms, these applications will be subject to significant additional scrutiny and challenge. This includes applications to cancel. Action then taken may include the use of past business reviews, deed polls and/or special requirements to ensure that past liabilities to consumers are met. Applicants should expect to have to justify their actions and explain how they have treated customers fairly. We will also be looking out for arrangements that seek to mask accountable individuals benefiting from assets from the original firm (including from the sale or transfer of client banks) through the involvement of connected parties.

**Ongoing services**

Our view of the risks

Consumers should receive a value for money service where an ongoing service is offered. The new Consumer Duty requires firms to ensure the service offered is appropriate for the client's circumstances, is delivered within the terms of the agreement and is at a cost that is fair value. We are concerned firms are not adequately considering the relevance, nature and costs of these services for all their clients. We are also concerned customers are not being provided with all the information regarding their investments, such as is required to be provided under MiFID II and suitability reports when a review is carried out.

What we expect of you

Culture in financial services is another key root cause of past major conduct failings. We expect firms to foster healthy cultures which prevent harm to consumers and markets. The new Consumer Duty sets higher expectations for the standard of care that firms provide to consumers. For many firms, this will require a significant shift in culture and behaviour, where they consistently focus on consumer outcomes, and put customers in a position where they can act and make decisions in their interests.

We expect the Consumer Duty will be particularly relevant to ongoing services provided by Financial Adviser firms. Firms should also ensure consumers are receiving the appropriate communications regarding their investments, including a suitability report if, after a review of suitability, the recommendation is to maintain or update the current investments.

What we will do

The implementation of the new Consumer Duty will be monitored across all regulated firms. We may undertake further cross firm work to explore this at a sector level and develop interventions if necessary. This may include assessment of whether consumers are paying for ongoing services that do not meet their needs, is not delivered as per the terms of the agreement or is too costly when assessed against the content and quality.

**Other areas of interest**

Diversity

We recognise the sector has taken some steps forward on diversity and inclusion. But there is much more that needs to be done to create truly diverse and inclusive organisations that meet the diverse needs of those they serve. We have engaged financial firms and other stakeholders in a discussion on how we can accelerate the pace of meaningful change on diversity and inclusion in the sector. In a joint Discussion Paper with the Prudential Regulation Authority and the Bank of England, we sought input on what role we can most usefully play to support this change. This year we have issued our Policy Statement 22/3: Diversity and inclusion on company boards and executive management and this will continue to be an area of focus to us in the coming years. We expect this to also be an area of focus for firms on how they can play their part in achieving improvements across the sector.

Sustainability

Financial services and markets have an important role in the transition to a more sustainable future. Financial services firms are increasingly incorporating consideration of Environmental, Social and Governance (ESG) factors into their operations, products and services. And, in response to growing consumer demand, firms are providing an increasingly diverse range of products that target various sustainability objectives, themes or characteristics.

Our Discussion Paper 21/4: Sustainability Disclosure Requirements and investment labels has gathered input from the market and we will set out proposals on the new Sustainability Disclosure Requirements (SDR) and investment labels in due course.

In the meantime, advisers should be considering the needs and objectives of their customers and if investment switches are recommended, ensure they are in the interest of the customer.

**Next steps**

As CEO, you are responsible for ensuring that your firm meets FCA requirements, including the obligations and expectations set out above. You should take all necessary actions to ensure these are met. We will use the Senior Managers and Certification Regime (SM&CR) to engage directly with accountable individuals on areas of concern.

Should you have any queries please contact our Supervision Hub on 0300 500 0597. This is the primary point of contact for your firm's day-to-day interactions with the FCA, and further details of how we can be reached are available on our website.

We also recognise that there may be times when your firm faces urgent issues of strategic importance. In such significant circumstances, please contact the Head of Department for Advisers, Wealth and Pensions Nick Hulme at Nick.Hulme@fca.org.uk

Yours sincerely,

**Therese Chambers**
**Director of Consumer Investments**