Geoffrey Armin has referred this Decision Notice to the Upper Tribunal to determine: (a) in relation to the FCA's decision to impose a financial penalty, what (if any) is the appropriate action for the FCA to take, and remit the matter to the FCA with such directions as the Tribunal considers appropriate; and (b) in relation to the prohibition order, whether to dismiss the reference or remit it to the FCA with a direction to reconsider and reach a decision in accordance with the findings of the Tribunal.

Therefore, the findings outlined in this Decision Notice reflect the FCA's belief as to what occurred and how it considers the behaviour of Geoffrey Armin should be characterised. The proposed action outlined in the Decision Notice will have no effect pending the determination of the case by the Tribunal. The Tribunal's decision will be made public on its website.

FINANCIAL CONDUCT AUTHORITY

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DECISION NOTICE

To: **Geoffrey Edward Armin**

Individual Reference Number: **GEA00003**

Born: **January 1953**

To: **Retirement and Pension Planning Services Limited (in liquidation)**
(as a third party pursuant to section 393(1) of the Act)

Firm Reference Number: **542640**

Address: **c/o John Hedger**
Seneca IP Limited
Speedwell Mill
Old Coach Road
Tansley DE4 5FY

Date: **20 May 2021**

1. ACTION

1.1. For the reasons given in this Decision Notice, the Authority has decided to:

(1) impose on Geoffrey Edward Armin a financial penalty of £1,284,523 pursuant to section 66 of the Act; and

(2) make an order, pursuant to section 56 of the Act, prohibiting Mr Armin from performing:

(a) any senior management function in relation to any regulated activities carried on by an authorised person, exempt person or exempt professional firm; and

(b) any function in relation to the regulated activity of advising on Pension Transfers and Pension Opt Outs carried on by an authorised person, exempt person and exempt professional firm.

1.2. Mr Armin has claimed that payment of the penalty would cause him serious financial hardship. Whilst Mr Armin has provided some verifiable evidence that payment of the penalty proposed by the Authority would cause him serious financial hardship, there is evidence that he has dissipated certain of his assets with the intention of frustrating or limiting the impact of the action proposed by the Authority and he has not provided full and frank disclosure in relation to those dissipations. Moreover, Mr Armin directly derived a significant financial benefit from his breaches. Having regard to these matters and the overall seriousness of Mr Armin's misconduct, which resulted in advice being given to customers by Mr Armin that did not comply with regulatory requirements, and which fell substantially below the standard of advice expected from an experienced Pension Transfer Specialist, the Authority considers it is not appropriate to reduce the financial penalty on the basis that it would cause Mr Armin serious financial hardship.

2. SUMMARY OF REASONS

Mr Armin's conduct

2.1. Geoffrey Edward Armin was the sole person at RPPS approved by the Authority to perform the controlled functions of CF1 (Director), CF10 (Compliance Oversight), CF11 (Money Laundering Reporting) and CF30 (Customer). Following the introduction of the Senior Managers and Certification Regime for all firms authorised by the Authority, the controlled functions Mr Armin was approved to perform were replaced by senior manager functions. As a result, from 9 December 2019, Mr Armin was approved to perform the SMF3 (Executive Director), SMF 16 (Compliance Oversight) and SMF17 (Money Laundering Reporting Officer) senior manager functions.

2.2. RPPS is a small firm which, during the Relevant Period, was authorised by the Authority to advise on pension transfers and pension opt outs and to arrange (bring about) deals in investments. Mr Armin was the only Pension Transfer Specialist at RPPS and solely responsible for advising customers on Pension Transfers. He was also solely responsible for ensuring that RPPS complied with the requirements and standards of the regulatory systems relevant to Pension Transfers.

2.3. During the Relevant Period, Mr Armin advised 422 customers on the transfer of their safeguarded pension benefits from a Defined Benefit Pension Scheme into an alternative pension arrangement (such as a personal pension). This included 183 members of the British Steel Pension Scheme, 174 of whom transferred out of the scheme following Mr Armin's Personal Recommendation. In advising his customers, Mr Armin was seriously incompetent, in breach of Statement of Principle 2.

2.4. Mr Armin failed to obtain information that was necessary to assessing whether a Pension Transfer was suitable for a customer. In addition, he largely disregarded vital information about customers which was necessary to assess whether it was suitable for them to transfer their pension, such as:

(a) their financial situation;
(b) their income needs throughout retirement; and
(c) how the customer's existing pension benefits compared to the proposed alternative pension.

2.5. In a number of instances, he only informed customers of the consequences of their decision to forego the valuable guaranteed benefits offered by their defined benefit pension scheme after they had already transferred out of their scheme. Throughout the advice process, he made omissions that gave rise to a risk of consumer detriment.

2.6. Mr Armin made recommendations to customers on the flawed assumption that a pension transfer to meet the customers' stated objectives was in their best interest, and to recommend the product the customer wanted. As a result, Mr Armin gave undue weight to customers' stated desire to transfer their pension and to meet various identified objectives, even where the identified objectives were not realistic and the pension transfer would be to their detriment. For members of the British Steel Pension Scheme, these failures were exacerbated by his failure to find out about alternatives to transfer, including transferring into the new Defined Benefit Pension Scheme offered by the sponsoring employers or remaining in the existing scheme and moving into the Pension Protection Fund (which exists to protect scheme members when their employer becomes insolvent). Either option may have been entirely viable for some members, preserving their valuable guaranteed income. This meant Mr Armin advised members of the British Steel Pension Scheme to transfer without considering the alternative options that were available to them under which they would retain guaranteed income for life.

2.7. The total value of transfers on which Mr Armin advised during the Relevant Period was £125 million, £74 million of which related to the British Steel Pension Scheme. The average transfer value for customers advised by Mr Armin during the Relevant Period was approximately £298,000. RPPS received £2.2 million in fees for all Defined Benefit Pension transfer advice, 55% of which was retained by RPPS and Mr Armin (i.e. approximately £1.2 million).

Background to the misconduct

2.8. Pensions are a traditional and tax-efficient way of saving money for retirement. The benefits someone obtains from their pension, particularly under a Defined Benefit Pension Scheme, can have a significant impact on their quality of life during retirement and, in some circumstances, can affect when an individual can retire. A Defined Benefit Pension Scheme is particularly valuable because it offers a secure, guaranteed income for life to members, which typically increases each year in line with inflation. Given the valuable benefits offered by Defined Benefit Pension Schemes, the Authority considers that a firm should only recommend a transfer if it can clearly demonstrate, based on contemporaneous evidence, that a transfer is in the customer's best interest.

2.9. Customers who engage advisers and authorised firms to provide them with advice in relation to their pensions place significant trust in them. It is therefore of paramount importance that advisers exercise due skill, care and diligence when advising customers regarding the transfer of their pensions, ensuring that the advice given to a customer is suitable for them, having regard to all of the relevant circumstances. This is even more important when customers have no option but to make a decision regarding their pension (see, in particular, paragraph 2.10 below) that could have a significant impact on their retirement. Where an adviser fails to do so, it exposes customers to a significant risk of harm.

2.10. In 2017, the British Steel Pension Scheme (which was in place during the Relevant Period) underwent significant restructuring, resulting in the Scheme being separated from the sponsoring employers. The restructuring received formal approval from The Pensions Regulator in August 2017 and took effect on 11 September 2017. As a result of the restructuring, from early October 2017, members of the British Steel Pension Scheme were given the choice of transferring their benefits from the scheme to a proposed new Defined Benefit Pension Scheme or remaining in the scheme which would subsequently enter the Pension Protection Fund. Members also had the option of transferring their benefits from the British Steel Pension Scheme into a personal pension.

Non-compliant Personal Recommendations

2.11. Mr Armin's recommendations that customers transfer out of their Defined Benefit Pension Scheme did not comply with the relevant regulatory requirements because of his omissions and his fundamental lack of understanding about his role as a pension transfer specialist, and this resulted in a significant risk of customers transferring when it was not suitable for them to do so. In addition, suitability reports issued by Mr Armin to customers made frequent use of exclusions and caveats which often contradicted his recommendation that it was suitable for the customer to transfer. As a result, the Authority considers that these suitability reports did not enable customers to make an informed decision on whether transferring out of their Defined Benefit Pension Scheme was right for them having regard to all the relevant factors and risks.

2.12. Mr Armin failed to gather adequate information regarding, and give adequate consideration to, customers' financial situation and income needs throughout retirement. Without this information, it was impossible for Mr Armin to determine whether a customer would be reliant on their Defined Benefit Pension Scheme to meet their income needs throughout retirement and whether they could bear the risks of losing the guaranteed income they would otherwise receive for their lifetime in order to achieve their objectives. Mr Armin also disregarded the transfer analysis calculations he performed. These calculations were necessary to establish the rate of growth a customer would need to achieve following the transfer to receive benefits that were comparative to those offered by their Defined Benefit Pension Scheme.

2.13. Mr Armin placed undue reliance on his customer's stated objectives regardless of whether they were realistic or financially viable. For many customers, it was only *after* he had made his recommendation to transfer that he analysed and documented whether a customer's objectives were realistic and achievable. Indeed, for some customers, he only performed this analysis after the transfer had already been processed. Often, that analysis showed that those customers he had advised to transfer out were at a significant risk of exhausting their pension funds at an early stage of their retirement.

2.14. For example, Mr B, a member of the British Steel Pension Scheme, was advised by Mr Armin to transfer so that he could retire early and leave the residue of his pension fund to his family in the event of his death. Analysis undertaken by Mr Armin showed that there was a real risk that Mr B's early retirement plans would result in his pension fund being completely depleted as early as the age of 67 and he would not therefore have any funds left to leave to his family. Mr Armin should therefore have identified that Mr B's objectives were unfortunately unrealistic and not achievable, and that a transfer was not, in the circumstances, suitable for Mr B.

2.15. The deficiencies in Mr Armin's advice process and recommendations meant that he failed to obtain the necessary information regarding a customer and failed to take reasonable steps to ensure that his advice that a customer transfers out of their Defined Benefit Pension Scheme, was suitable for the customer. These deficiencies also resulted in RPPS failing to comply with relevant regulatory requirement and standards, in that RPPS failed to:

(a) pay due regard to its customers' interests and treat them fairly; and

(b) take reasonable care to ensure the suitability of its advice to customers, who were entitled to rely on RPPS's, and Mr Armin's, judgment.

2.16. Mr Armin's failure to ensure that RPPS complied with its regulatory obligations was further compounded by the fact that Mr Armin stopped procuring compliance advice during the Relevant Period.

Potential detriment to consumers

2.17. The Authority has undertaken analysis of the potential losses suffered by consumers where they transfer out of a Defined Benefit Pension Scheme when it is not suitable for them to do so. In particular, analysis undertaken by the Authority in 2017 calculated the estimate average redress arising from unsuitable Pension Transfer advice to be approximately £58,000. Further analysis undertaken by the

Authority in 2019 calculated harm arising from unsuitable Pension Transfer advice to be an average of £56,000.

Mr Armin's misconduct

2.18. By reason of the matters referred to in paragraphs 2.1 to 2.14 above, the Authority considers that Mr Armin breached Statement of Principle 2 during the Relevant Period, in that he failed to act with due skill, care and diligence when advising customers on Pension Transfers because the advice he provided did not to comply with regulatory requirements. In particular, Mr Armin:

(a) failed to treat his customers fairly as he based his recommendation on the flawed assumption that a transfer to meet the customer's stated objectives was in the customer's best interests. In reality, many customers' objectives were either not realisable or financially viable, or could have been met by the existing scheme;

(b) failed to assess, or give any consideration to, whether customers were reliant on the income from their Defined Benefit Pension Scheme and whether they could financially bear the risks involved in a Pension Transfer, despite knowing that, following the recommended transfer, customers' retirement income would be dependent on the performance of the new investment;

(c) told customers who wished to retire early that their Defined Benefit Pension Scheme offered better benefits if they wanted to retire early but nonetheless advised the customer to transfer, without gathering information, undertaking adequate analysis or explaining why he considered it was suitable for a customer to transfer;

(d) failed to undertake cashflow modelling analysis in a timely manner, and as a result he did not give any meaningful consideration to, and deprived customers of crucial information regarding, how their objectives impacted on the sustainability of their pension fund throughout retirement and whether their objectives were realistic and achievable;

(e) failed to conduct any research on the alternative options available to members of the British Steel Pension Scheme for those customers who were members of the Scheme;

(f) failed to undertake any or any adequate transfer analysis to compare the benefits likely to be paid under the Defined Benefit Pension Scheme with benefits provided by the personal pension, by failing to consistently obtain a transfer value analysis report for customers he was advising. In fact, he nullified any comparison he may have carried out by ignoring the results of the comparison in arriving at his recommendation to the customer; and

(g) failed to ensure Suitability Reports issued to customers contained adequate information about the possible disadvantages of transferring out of their Defined Benefit Pension Scheme (such as that their pension might run out early in their retirement) having regard to the customer's specific circumstances and objectives. The warnings and Personal Recommendation to transfer were often mutually contradictory, with no explanation given as to why. As a result, the Suitability Reports issued by Mr Armin were not fair, clear and not misleading.

2.19. In addition, by reason of the matters referred to in paragraphs 2.15 and 2.16 above, the Authority considers that Mr Armin breached Statement of Principle 7 during the Relevant Period, in that he failed to take reasonable steps to ensure that RPPS complied with Principles 6 and 9 and the Authority's Conduct of Business rules 2.1.1R, 9.2.1R, 9.2.2R, 9.2.6R and 19.1.2R as a result of the deficiencies in his Pension Transfer recommendations.

2.20. The Authority considers Mr Armin's failings to be particularly serious because:

(a) he may have caused detriment to a large number of customers, some of whom were vulnerable due to their age and financial situation;

(b) the potential effect of the transfer for many members of the British Steel Pension Scheme advised by Mr Armin would be to risk extinguishing their primary source of income in retirement at an early stage of their retirement if the customer continued to access their pension in accordance with Mr Armin's recommendation which was based on their stated objectives; and

(c) Mr Armin obtained substantial financial benefits as a result of his failings, in the form of, amongst other things, salary, dividends, pension contributions and other drawings.

2.21. The Authority considers that the seriousness of Mr Armin's misconduct between 8 June 2015 and 13 December 2017 demonstrates a serious lack of competence and capability. The Authority therefore considers he is not fit and proper to perform (a) any senior management function in relation to any regulated activities carried on by an authorised person, exempt person or exempt professional firm, and (b) any function in relation to the regulated activity of advising on Pension Transfers and Pension Opt Outs carried on by an authorised person, exempt person and exempt professional firm.

2.22. The Authority therefore has decided to prohibit Mr Armin in respect of the functions set out in paragraph 1.1(2) above.

2.23. Further, the Authority has decided to impose a financial penalty on Mr Armin in the amount of £1,284,523 for his breach of Statements of Principle 2 and 7 during the Relevant Period. Mr Armin has provided some verifiable evidence that payment of the penalty proposed by the Authority would cause him serious financial hardship. However, there is evidence that Mr Armin has dissipated certain of his assets with the intention, in the Authority's view, of frustrating or limiting the impact of the action proposed by the FCA, and Mr Armin had not provided full and frank disclosure in respect of these dissipations. Moreover, Mr Armin directly derived a financial benefit from his breaches. Having regard to these matters and the overall seriousness of Mr Armin's misconduct, the Authority considers it is not appropriate to reduce the financial penalty on the basis that it would cause Mr Armin serious financial hardship.

3. DEFINITIONS

3.1. The definitions below are used in this Notice:

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

"APER" means the Statements of Principle and Code of Practice for Approved Persons part of the Handbook;

"the Authority" means the Financial Conduct Authority;

"CETV" means cash equivalent transfer value, which is the cash value of benefits which have been accrued to, or in respect of, a member of a pension scheme at a particular date. The CETV represents the expected costs of providing the member's benefits within the scheme and, in the case of a Defined Benefit Pension Scheme, the CETV is determined using actuarial assumptions;

"COBS" means the Conduct of Business Sourcebook, part of the Handbook;

"Defined Benefit Pension Scheme" means an occupational pension scheme as defined by Article 3(1) of the Financial Services and Markets Act (Regulated Activities) Order 2001, namely where the amount paid to the beneficiary is based on how many years the beneficiary has been employed and the salary the beneficiary earned during that employment (rather than the value of their investments);

"DEPP" means the Authority's Decision Procedure and Penalties Manual;

"EG" means the Authority's Enforcement Guide;

"the Handbook" means the Authority's Handbook of rules and guidance;

"Mr Armin" means Geoffrey Edward Armin;

"Pension Transfer" has the meaning given in the Handbook and includes the transfer of deferred benefits from an occupational pension scheme (with safeguarded benefits, such as a Defined Benefit Pension Scheme) to a personal pension scheme;

"Pension Transfer Specialist" has the meaning given in the Handbook and includes an individual appointed by a firm to check the suitability of, amongst other things, a pension transfer, and who has passed the required examinations as specified in the Training and Competence Sourcebook, part of the Handbook;

"Personal Recommendation" means a recommendation that is advice on transfer of pension benefits into a personal pension or SIPP, and is presented as suitable for the customer to whom it is made, or is based on a consideration of the customer's circumstances;

"PRIN" means the Authority's Principles for Businesses;

"PPF" means the Pension Protection Fund;

“Regulated Apportionment Arrangement” or “RAA” means the statutory mechanism that can be used in corporate restructuring situations where a sponsoring employer of a Defined Benefit Pension Scheme stops participating in the pension scheme (thereby freeing the sponsoring employer from its financial obligations to the pension scheme) in order to avoid insolvency, subject to certain conditions being met and the RAA being approved by The Pensions Regulator and the PPF;

“the Relevant Period” means 8 June 2015 to 13 December 2017;

“RPPS” means Retirement and Pension Planning Services Limited (in liquidation);

“the Scheme” means the British Steel Defined Benefit Pension Scheme that was in place during the Relevant Period;

“Statements of Principle” mean the Authority’s Statements of Principle and Code of Practice for Approved Persons;

“Suitability Report” means the report which a firm must provide to its customer under COBS 9.4 which, amongst other things, explains why the firm has concluded that a recommended transaction is suitable for the client;

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber);

“TVAS” stands for ‘transfer value analysis’ and is the comparison that a firm must carry out in accordance with COBS 19.1.2R when a firm gives advice or a Personal Recommendation about, amongst other things, a Pension Transfer;

“TVAS Report” means a document that reports to the customer in respect of the comparison firms are required to carry on in accordance with COBS 19.1.2R; and

“the Voluntary Requirement” means the requirement imposed on RPPS on 15 December 2017.

4. FACTS AND MATTERS

Background

RPPS

4.1. RPPS is a small firm based in Barnsley, South Yorkshire, authorised since 22 August 2011. RPPS has permission to carry on the regulated activities of, amongst other things, advising on Pension Transfers, advising on investments (excluding Pension Transfers) and arranging (bringing about) deals in investments. On 15 December 2017, at the request of the Authority, RPPS applied to the Authority to impose a voluntary requirement on RPPS, under which RPPS was required to cease all regulated activities relating to defined benefit pension transfer business.

4.2. During the Relevant Period, Mr Armin, an experienced and qualified Pension Transfer Specialist, performed the CF1 (Director), CF10 (Compliance Oversight), CF11 (Money Laundering Reporting) and CF30 (Customer) controlled functions at RPPS. Following the introduction of the Senior Managers and Certification Regime for all firms authorised by the Authority on 9 December 2019, the controlled functions Mr Armin was approved to perform were replaced by senior manager functions. As a result, from that date, Mr Armin was approved to perform the SMF3 (Executive Director), SMF 16 (Compliance Oversight) and SMF17 (Money Laundering Reporting Officer) senior manager functions. Mr Armin was also the sole director and Pension Transfer Specialist at RPPS. Therefore, at all times during the Relevant Period, Mr Armin was solely responsible for advising customers on Pension Transfers and ensuring that RPPS complied with the regulatory requirements and standards relevant to Pension Transfers.

The Scheme

4.3. Mr Armin advised 422 customers during the Relevant Period on the transfer of their Defined Benefit Pension Scheme to an alternative pension arrangement, 183 of whom were members of the Scheme. The Scheme was one of the largest Defined Benefit Pension Schemes in the UK, with approximately 125,000 members and £15 billion in assets as at 30 June 2017. In March 2017, the Scheme was closed to future accruals, which meant that no new members could join the Scheme and existing members could no longer build up their benefits. The Scheme also had an ongoing funding deficit.

4.4. In early 2016, various options were being explored in relation to the Scheme as a result of insolvency concerns relating to one of the sponsoring employers of the Scheme. These options included seeking legislative changes which would have allowed pension increases available under the Scheme to be reduced to the statutory minimum levels, and the sale of one of the sponsoring employers. However, it was concluded that the only way to avoid insolvency would be to enter into a Regulated Apportionment Arrangement.

4.5. On 11 August 2017, The Pensions Regulator gave its clearance for the RAA. Under the RAA, the Scheme would receive £550 million and a 33% equity stake in one of the sponsoring employers and the Scheme would transfer into the PPF. In addition, a new Defined Benefit Pension Scheme was proposed by the sponsoring employers in combination with the RAA proposal. The RAA received formal approval on 11 September 2017, which resulted in the Scheme being separated from the sponsoring employers.

4.6. The consequences of the RAA were that members of the Scheme were required to make a choice about two options offered by the Scheme, namely to either:

(a) remain in the Scheme and therefore move into the PPF; or

(b) transfer their benefits into the new Defined Benefit Pension Scheme that had been proposed by the sponsoring employers.

4.7. Alternatively, Scheme members could take a CETV and transfer their pension benefits into an alternative pension arrangement (for example a personal pension scheme or another occupational pension scheme held by the member).

4.8. On 11 and 21 September 2017, the Scheme announced that it would separate from the sponsoring employers. Information about the options available to members was available on the Scheme's website from 11 August 2017 and in October 2017, the Scheme distributed information packs to members about these options. Members were required to choose their preferred option by 22 December 2017. Those who wanted to transfer their pension benefits from the Scheme to a personal pension were required to submit the required paperwork to execute the transfer by 16 February 2018.

RPPS's business model

Undocumented process and no compliance checks

4.9. Mr Armin never adequately documented the advice process for Pension Transfers. Mr Armin had previously used compliance consultants to conduct periodic checks on his files. However, during the Relevant Period Mr Armin did not procure any independent reviews of RPPS's business or Pension Transfer customer files. There were no other independent checks carried out. Mr Armin therefore failed to ensure that adequate measures were in place to ensure that RPPS complied with its regulatory obligations when he provided Personal Recommendations to customers in relation to Pension Transfers.

RPPS's advice process

4.10. During the Relevant Period, Mr Armin advised 422 customers on the transfer of their safeguarded pension benefits in a Defined Benefit Pension Scheme into an alternative pension arrangement. These customers transferred a total of £125 million out of their Defined Benefit Pension Scheme, with an average transfer value of approximately £298,000. Of the 422 customers, 183 were members of the Scheme, 174 (95%) of whom transferred out of the Scheme as a result of Mr Armin's Personal Recommendation. The majority of members who transferred out of the Scheme were advised by Mr Armin between mid-August (the point at which the RAA received clearance and information regarding the option available to customers was initially publicised by the Scheme) and December 2017, by which time substantial information about the options available to members of the Scheme had been made public.

4.11. The majority of customers advised by Mr Armin were introduced to him by other authorised financial advisers. In most instances, the introducing adviser gathered, and provided Mr Armin, information about the customer and the Defined Benefit Pension Scheme the customer was seeking to transfer, which included details of the customer's financial situation, personal circumstances, retirement objectives, attitude to risk and the CETV of the pension the customer wished to transfer. However, Mr Armin was responsible for ensuring that the necessary information was obtained from the customer to assess whether a Pension Transfer was suitable for the customer.

4.12. When making a Personal Recommendation in respect of a Pension Transfer, RPPS was required to ensure that, amongst other things, the advice:

(a) took into account the necessary information about the customer and their personal circumstances;

(b) was based on a proper analysis of the customer's circumstances; and

(c) included a comparison of the benefits under a Defined Benefit Pension Scheme and the scheme recommended by RPPS, with any such comparison including enough information for the customer to make an informed decision.

4.13. Mr Armin knew that Defined Benefit Pension Schemes offered valuable, guaranteed benefits which would increase annually both up to and after the customer retired. Mr Armin also knew the risks to which customers would be exposed if they transferred out of a Defined Benefit Pension Scheme following his advice and the potential impact this could have on the customer's pension fund. For example, Mr Armin brought to customers' attention from the outset that, by transferring, the pension benefits they received would be dependent on the performance of the investment and if the customer drew income when investment returns were poor or drew too much income, their pension fund could be depleted.

4.14. Despite this knowledge, there were numerous deficiencies in Mr Armin's Pension Transfer advice process and the quality of the Personal Recommendations he provided to customers in relation to Pension Transfers, details of which are contained in paragraphs 4.15 to 4.46 below. These findings are based on a review of 30 files for customers whom Mr Armin advised to transfer out of the Defined Benefit Pension Scheme during the Relevant Period, including 13 customers who were members of the Scheme. Four of the 30 customers were seeking advice on the transfer of multiple Defined Benefit Pension Schemes. Given the pervasive and consistent failings across all the files, the Authority has inferred from the 30 files reviewed that all of the Pension Transfer advice provided by Mr Armin to RPPS's customers did not comply with the relevant regulatory requirements. This is because Mr Armin failed to obtain the necessary information about customers to assess whether it was suitable for the customers to transfer (see paragraphs 4.18 to 4.24 below) and he failed to take reasonable steps to ensure that advice in respect of a Pension Transfer was suitable for the customer by disregarding or, at the very least, failing to give proper consideration to, information that was essential to assessing suitability (see paragraphs 4.25 to 4.42 below). In the absence of a proper assessment of suitability and adequate information regarding the customer, Mr Armin should not have recommended that a customer transfers out of their Defined Benefit Pension Scheme. However, by recommending that customers transfer in these circumstances, he exposed his customers to a significant risk of transferring out of their Defined Benefit Pension Scheme when it was not in their best interests, or suitable for them, to transfer.

Flawed starting premise

4.15. When a firm is advising customers on whether to transfer out of a Defined Benefit Pension Scheme, the firm should start from a position that a transfer will not be in the best interests for the majority of customers. Mr Armin's starting point was that customers should be cautious and understand the benefits they would give up, but he then placed heavy reliance on a customer's stated wish to transfer their pension and objectives when making his recommendation. His recommendations were therefore made on a flawed assumption that a transfer to meet a customer's stated objectives was in their best interests, even though the customer's objectives were not realistic or financially viable. As a result, he recommended a transfer to most of his customers.

4.16. Mr Armin, either personally or through the introducing adviser, set out for the customer:

(a) the features and benefits of the customer's Defined Benefit Pension Scheme, including how the CETV was calculated and what this represented; and

(b) the different options that were available if the customer transferred their pension benefits from their Defined Benefit Pension Scheme, including the features and benefits of those options.

4.17. Mr Armin then put the choice of pension option (for example, a personal pension with flexible benefits or an annuity) into the hands of his customer (with which he stated he would have to agree). However, he failed to ensure that he obtained the necessary information to assess suitability of a Pension Transfer for the customer, and he failed to take reasonable steps to ensure that his Personal Recommendations to customers in respect of a Pension Transfer were suitable for them. In addition, he failed to provide customers with adequate information regarding any such recommendation to enable the customer to make an informed decision.

Failure to obtain the necessary information

Information regarding the Scheme

4.18. In order to advise compliantly, Mr Armin was required to obtain such information about customers that were necessary to understand the essential facts about his customers to assess whether a Pension Transfer was suitable, and where this information had not been obtained, he should not have made a Personal Recommendation to the customer in respect of a Pension Transfer. The Authority considers that, for Scheme members, this included information about the customer's existing Defined Benefit Pension Scheme and an understanding of significant issues that affected the Scheme including which alternative options might be available. Mr Armin needed this information to consider how the loss of benefits available under the customer's existing Defined Benefit Pension Scheme might impact the customer's objectives and financial situation, to carry out a transfer analysis and to determine whether a Pension Transfer was in the customer's best interest.

4.19. The Authority considers that Mr Armin failed to properly inform himself, and gather appropriate information regarding, the issues impacting the Scheme and members, and the alternative options available to members of the Scheme, such as the new Defined Benefit Pension Scheme proposed by the sponsoring employers.

4.20. In particular:

(a) although Mr Armin had some awareness of the options available to members following the approval of the RAA (referred to in paragraph 4.6 above), he did not take steps to obtain information about those options or the decisions customers had to make after the Scheme was separated from the sponsoring employers. For example, none of the customer files reviewed by the Authority for members advised by Mr Armin after October 2017 included copies of the information packs issued by the Scheme to those members;

(b) Mr Armin failed to undertake any independent research regarding the issues surrounding the Scheme, such as the separation of the Scheme from the sponsoring employer, the fact that the Scheme would be entering into the PPF and that Scheme members had been given a specific period of time in which to decide what they wanted to do with their pension benefits under the

Scheme, despite information regarding these matters being publicly available;

(c) he did not take adequate steps to ensure he understood the benefits available under the Scheme. For example, he considered that members of the Scheme could not draw benefits from the Scheme before the normal retirement age of the Scheme. Mr Armin did not understand when questioned in interview that members were entitled to start drawing benefits from the Scheme from the age of 55; and

(d) he did not consistently obtain the necessary information regarding the Scheme to undertake a transfer analysis. For example, in two customer files reviewed by the Authority, the Suitability Report explicitly stated that a TVAS Report had not been obtained due to limited information being received from the Scheme. However, Mr Armin should have gathered the necessary information from which to obtain a TVAS Report.

4.21. Had Mr Armin taken reasonable steps to obtain information about the RAA and the options available to Scheme members (such as obtaining copies of the information pack provided by the Scheme to his customers in October 2017 from the customer or the Scheme directly, or identifying information available in the public domain regarding the Scheme and the RAA), he would have identified that customers had an option to retain guaranteed, inflation-proof income for life by moving into the new Defined Benefit Pension Scheme proposed by the sponsoring employer. He then should have given due consideration to these options when advising customers on whether it was suitable for them to transfer.

4.22. As Mr Armin did not properly inform himself of the options available to Scheme members, he failed to give any consideration to, or advise customers on, whether it was in their best interest to transfer into the new Defined Benefit Pension Scheme proposed by the sponsoring employers, or to remain in the Scheme and enter the PPF. This is evident in the Suitability Reports issued by Mr Armin to Scheme members, none of which included any reference to the new Defined Benefit Pension Scheme (or the benefits available under that scheme) or any explanation that remaining in the Scheme would mean they entered the PPF. He therefore advised Scheme members on the premise that their only options were to either remain in the Scheme or transfer, without giving due consideration to the unique circumstances that Scheme members faced, given that the options available to them enabled them to retain guaranteed income for their lifetime.

The extent of early retirement benefits

4.23. In the Suitability Reports issued to 20 customers (which includes both members of the Scheme and members of other Defined Benefit Pension Schemes), Mr Armin stated that the customer's Defined Benefit Pension Scheme "*would offer much better benefits*" if the customer wished to retire before the normal retirement age of the scheme, including two customers who did not, in fact, wish to retire early, but nonetheless recommended that the customer should transfer.

4.24. In all 20 cases, Mr Armin failed to gather the necessary information about the early retirement benefits available under the customer's existing Defined Benefit Pension Scheme. He also failed to carry out any analysis in relation to the early retirement benefits for 17 of the 20 customers, such that he was unable to compare the early retirement benefits or explain to customers why the Defined Benefit Pension Scheme offered better early retirement benefits than an alternative pension arrangement. The Suitability Reports issued by Mr Armin to his customers were also confusing because he did not explain why, despite his view regarding early retirement benefits under a Defined Benefit Pension Scheme, it was nonetheless suitable for the customer to transfer, and as a result, his views on early retirement and his recommendation that the customer transfers were mutually contradictory.

Inadequate assessment of the suitability of a Pension Transfer

4.25. Mr Armin was required to take reasonable steps to ensure that Personal Recommendations he provided in relation to Pension Transfers were suitable for his customers. He needed to assess all the necessary information and undertake sufficient analysis. The Authority found significant failures by Mr Armin when assessing suitability, detail of which are set out in paragraphs 4.26 to 4.42 below. As a result of these failures, Mr Armin failed to take reasonable steps to ensure his Personal Recommendation in respect of Pension Transfers were suitable for his customers.

The customer's financial situation

4.26. Gathering adequate information regarding a customer's financial situation and income needs throughout retirement is necessary to assess whether a Pension Transfer is suitable for a customer. A customer's financial situation and income needs throughout retirement are relevant to determining whether it is appropriate for a customer to forego the guaranteed income they would receive in circumstances where:

(a) the customer will be reliant on the income from their Defined Benefit Pension Scheme in retirement; and

(b) the customer may not have the capacity to bear losses in the investment into which their pension benefits are transferred.

4.27. Mr Armin knew that he needed to take a customer's financial situation into account. However, he expressly stated to customers in the Suitability Report that he had given no consideration to their financial situation in his assessment of the suitability of a Pension Transfer. He did not therefore assess, or give any consideration to, whether a customer would be reliant on the income from their Defined Benefit Pension Scheme or whether they could bear the risks involved in a Pension Transfer. By not doing so, Mr Armin failed to consider whether, in light of their financial situation, the customer might not be able to forego the guaranteed income they would receive under their Defined Benefit Pension Scheme. This was despite his knowledge that, after the transfer, the benefits a customer received would be dependent on the performance of the recommended investment.

4.28. The Authority found that, for 23 of the 30 customers for whom files have been reviewed, there were indications that the customers were reliant on their Defined Benefit Pension Scheme to meet their income needs throughout retirement. Their Defined Benefit Pension Scheme pension was their primary source of income in retirement. These customers did not have significant assets or other sources of income which could be used to supplement any shortfalls in their income needs. Given their financial situation, it was especially important for these customers to retain guaranteed income because they did not have the capacity to bear the risks of transferring. Mr Armin's advice to transfer out exposed his customers to a risk of not being able to meet their income needs throughout retirement because their income would be dependent on the performance of the recommended investment.

The customer's objectives

4.29. All of the 30 files reviewed had the same, generic objectives, especially those that were members of the Scheme:

(a) 25 customers wanted to transfer so that they could access their pension benefits flexibly;

(b) 24 customers wished to maximise or improve the death benefits that would be available to their beneficiaries (such as a spouse, partner and/or children);

(c) 22 customers wished to retire and access their pension benefits before they reached the Defined Benefit Pension Scheme's normal retirement age; and

(d) 16 customers wanted to access the pension commencement lump sum (either before the customer intended to draw income from their pension or at the same time).

4.30. Mr Armin failed adequately to explore whether his customer's objectives and intentions were realisable, having regard to their wider personal and financial circumstances. For example, for 23 customers, Mr Armin did not explain the obvious trade-off between 'having more flexibility' and receiving guaranteed income in retirement on which they were wholly reliant.

4.31. Further, Mr Armin did not, prior to making a Personal Recommendation, undertake sufficient analysis, such as cashflow modelling, to determine whether the customer's objectives were realistic or achievable. Mr Armin knew that, once a request for a Pension Transfer was submitted, it would be difficult to withdraw that request. Nonetheless, for the majority of customers where cashflow modelling was undertaken, Mr Armin only did the cashflow modelling after a Personal Recommendation had been provided. In fact, for 61 Scheme members, the cashflow modelling was undertaken after the transfer had been completed, and in a further six cases, at a point at which the Authority considers it was highly unlikely that the customer would be able to stop the transfer.

4.32. Mr Armin's failure to undertake cashflow modelling in a timely manner meant that, in making a Personal Recommendation, he could not give any meaningful consideration to, and deprived customers of crucial information about:

(a) the impact which an objective to access the pension early or take a lump sum might have on the sustainability of their pension fund throughout retirement; and

(b) whether their objectives were realistic and therefore reasonably achievable.

4.33. The result for a number of customers whom Mr Armin advised to transfer out was that they were placed at significant risk of completely depleting their pension fund at an early stage of retirement. For example, Mr Armin advised Mr B to transfer out of the Scheme and into a personal pension with flexible drawdown facilities so that Mr B could: (a) retire between the age of 55 and 57 with an income of £15,000 a year; (b) access his pension benefits flexibly; (c) be debt free by 55; and (d) pass on death benefits to his family. Cashflow modelling undertaken by Mr Armin after he had provided a Personal Recommendation to Mr B showed that Mr B's intention to retire as early as 55 and take an income of £15,000 a year could result in his pension fund being exhausted by the age of 71, or 67 if he decided to take the tax-free lump sum when he retired. As a result, it appeared that:

(a) it was not realistic for Mr B to retire early or take as much income as he had indicated;

(b) there was a strong possibility that he would not have been able to achieve his death benefit objective; and

(c) there was a strong indication that it was not suitable for Mr B to transfer out of the Scheme given his objectives had a significant impact on the long-term sustainability of his primary pension provision.

4.34. The Authority also found evidence of numerous other customers who had unrealistic and unachievable objectives and who were at significant risk of completely depleting their pension fund at an early stage of retirement. For six customers, all bar one of whom were members of the Scheme and had limited liquid assets, the cashflow modelling undertaken by Mr Armin showed that their pension funds could be depleted before the age of 67 (i.e. their state pension age). For three of these customers, this was as early as the age of 63, which meant that they would potentially have had no source of income to meet their retirement needs for a significant period of time before they started receiving their state pension. Furthermore, three of the six customers wished to pass on death benefits to their family which they would not have achieved by transferring out of the Scheme. The Authority also found that, for 63 customers, the cashflow modelling showed that, if they transferred out of their Defined Benefit Pension Schemes, there was a risk that the customers' pension funds would be depleted within 10 years of their state pension commencing.

4.35. The matters referred to in paragraphs 4.30 to 4.34 demonstrate that Mr Armin consistently failed to analyse whether his customers' objectives were realistic and achievable, what the impact might be on those objectives of transferring out of their Defined Benefit Pension Scheme and whether the customer could bear the risks involved in the transfer to achieve those objectives, before he advised the customer to transfer. More significantly, by not undertaking such analysis before making a recommendation, and in some cases before the transfer was processed, Mr Armin exposed customers to a risk that they would have no choice but to proceed with a transfer in circumstances where the cashflow modelling showed that:

(a) to transfer on the basis of their stated objectives would have a detrimental impact the sustainability of their pension fund; and

(b) a transfer in order to achieve a customer's objectives was not in their best interest.

Transfer analysis

4.36. Mr Armin was required to compare the benefits likely to be paid under a Defined Benefit Pension Scheme with the benefits afforded by the personal pension scheme before he advised a customer to transfer out of a Defined Benefit Pension Scheme. Mr Armin had to ensure that the comparison included enough information for the customer to be able to make an informed decision.

4.37. Typically, this comparison would be contained in a TVAS Report, and the TVAS Report would set out, amongst other things, a comparison relating to specific benefits (for example, death benefits) and a critical yield calculation. The critical yield is guidance based on set assumptions (expressed as a percentage) on the level of return the customer's investment will need to achieve up to the point they started drawing from the pension to match the benefits they would receive from their Defined Benefit Pension Scheme.

4.38. The Authority found that Mr Armin did not consistently obtain a TVAS Report or conduct a comparison (as described in paragraph 4.36 above) when advising on Pension Transfers. A TVAS Report or comparison was not undertaken for 17 of the 30 customer files reviewed by the Authority. For two of these customers, a TVAS Report was not obtained because Mr Armin did not have sufficient information regarding the Defined Benefit Pension Scheme in respect of which the customer was seeking advice. The Authority found no evidence to demonstrate that Mr Armin had taken steps to obtain the necessary information from the relevant schemes such that he could obtain a TVAS Report for these clients.

4.39. Even where Mr Armin had obtained a TVAS Report, there were various deficiencies in the comparison. In 12 TVAS Reports reviewed by the Authority, the following deficiencies were identified:

(a) the comparison did not take all of the customer's relevant circumstances into account. For example, none of the TVAS Reports included basic information regarding the customer, such as their marital status, whether they had any dependents, their attitude to risk and information regarding their health; and

(b) the comparison did not include enough information for the customer to make an informed decision. In particular, for 10 of the 12 customers for whom a TVAS Report was obtained, no comparison at the customer's desired retirement age was undertaken. These customers would not, therefore, have been in possession of sufficient information about the level of investment return they would need to achieve up to their desired retirement age so that the benefits they received following the transfer were comparable with the benefits available under the Defined Benefit Pension Scheme at the same age. In the absence of this information, the customers would not have been in a position to make an informed decision.

4.40. Mr Armin told customers he did not take into account the results of the TVAS in making a recommendation because the TVAS involved the use of assumptions. Therefore, irrespective of whether the information contained in the TVAS Report supported Mr Armin's recommendation or not, that information would not have changed his recommendation.

4.41. However, given the purpose of the comparison in a TVAS Report (as explained in paragraphs 4.36 and 4.37 above), it was important that Mr Armin took the contents of a TVAS Report, such as the critical yield, into account when making a Personal Recommendation. It was also important that Mr Armin explained to customers: (a) what the results of all relevant critical yield calculations meant in terms of the benefits the customer could receive following the transfer; (b) whether the comparison supported his recommendation; and (c) if the comparison did not support the recommendation, why he considered it was nonetheless suitable for the client to transfer. However, he failed to do so. For example, in three Suitability

Reports reviewed by the Authority, Mr Armin simply stated that the critical yield was not achievable based on the recommended fund and the period within which the customer wanted to transfer, without any explanation of (a) what this meant in respect of the potential income the customer was able to draw from their pension following the transfer compared with the income available from their Defined Benefit Pension Scheme, or (b) why it was suitable for the customer to transfer even though the critical yield did not support a recommendation to transfer. As a result, Mr Armin's customers could not have been in a position to make an informed decision on whether to transfer or not.

4.42. For example, the TVAS Report obtained by Mr Armin for Mr C stated that to replace the benefits provided by the Scheme, Mr C would need an investment return of 11% per annum if Mr C retired at the normal retirement age of the Scheme, or 24.4% per annum if he retired at 60. This was based on a comparison between the benefits under the Scheme and a low risk investment fund. Mr Armin told Mr C that, in his opinion, the critical yield (as at the normal retirement age of the Scheme) was not achievable based on the time horizon to retirement and the potential returns from the recommended investment fund. However, Mr Armin did not explain that this meant that the Scheme offered better benefits to Mr C than he would receive if he transferred. Furthermore, the Suitability Report included no reference to the critical yield at the client's desired retirement age, despite Mr C's top priority being the ability to retire early.

Impact of Mr Armin's failings

4.43. As a direct result of Mr Armin's failure to gather the necessary information about his customers (as detailed in paragraphs 4.18 to 4.24 above) and his failure to take reasonable steps to ensure his advice in respect of Pension Transfers was suitable for his customers (as detailed in paragraphs 4.25 to 4.42 above), all of the Pension Transfer advice provided by Mr Armin to RPPS's customers did not comply with the relevant regulatory requirements. As a result, there was a significant risk of customers advised by Mr Armin transferring out of their Defined Benefit Pension Scheme when it was not suitable for them to do so.

4.44. In particular, the deficiencies in the information that Mr Armin gathered about his customers (as detailed in paragraphs 4.18 to 4.24) meant that Mr Armin was not in a position to assess whether a Pension Transfer was suitable for his customers, or make a Personal Recommendation which complied with the relevant regulatory requirements. In fact, he should not have advised customers to transfer where he had not gathered the necessary information. This was exacerbated by Mr Armin disregarding information about his customers (such as their personal financial circumstances) in forming his recommendation.

4.45. Furthermore, as detailed in paragraphs 4.25 to 4.42 above, there were serious shortcomings in Mr Armin's assessment of the suitability of a customer transferring out of their Defined Benefit Pension Scheme because he:

(a) did not assess, having regard to a customer's financial situation, whether a customer was reliant on the income from their pension or could bear the risks of transferring and foregoing the guaranteed income;

(b) did not analyse whether a customer's objectives were realistic and achievable prior to making a Personal Recommendation, and in a number of cases prior to the transfer; and

(c) failed to consistently obtain TVAS Reports when advising customers, and disregarded information contained in TVAS Reports where these were obtained, such that his customers could not have been in a position to make an informed decision on whether transferring was in their best interest.

4.46. This caused particular risk to members of the Scheme advised by Mr Armin, who transferred a total of £74 million from the Scheme into personal pensions. From September 2017 onwards, members of the Scheme had the option to transfer into a new Defined Benefit Pension Scheme proposed by the sponsoring employers and could thereby have retained the guaranteed benefits available under that scheme.

4.47. The Authority has undertaken analysis of the potential losses consumers suffer where they transfer out of a Defined Benefit Pension Scheme when it is not suitable for them to do so. Analysis undertaken by the Authority in 2017 calculated the estimate average redress arising from unsuitable Pension Transfer advice to be approximately £58,000. Further analysis undertaken by the Authority in 2019 calculated harm arising from unsuitable Pension Transfer advice to be £56,000.

Benefit derived by Mr Armin

4.48. RPPS operated a contingent charging model, whereby customers were only liable to pay fees to RPPS if they proceeded with Mr Armin's Personal Recommendation to transfer out of their Defined Benefit Pension Scheme. Those fees for Pension

Transfers provided by Mr Armin and RPPS were based on a percentage of the CETV of the pension the customer wished to transfer. For the majority of customers, the fees payable to RPPS were deducted from their pension upon completion of the Pension Transfer.

4.49. During the Relevant Period, RPPS generated £2.2 million in revenue from fees for Pension Transfer business it carried on, 78% of which was generated in 2017. £1.19 million of the total revenue generated during the Relevant Period was attributable to transfers by members of the Scheme, 96% of which was generated from Scheme members that Mr Armin advised in 2017. RPPS and Mr Armin retained 55% of the fees received all customers advised, with the remaining 45% being payable to the introducer. RPPS and Mr Armin therefore retained approximately £1.2 million of the revenue generated from the Pension Transfer business undertaken, which was used to pay various benefits to Mr Armin, including salary, dividends, pension contributions and other drawings.

5. FAILINGS

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

5.2. By reason of the facts and matters set out above, Mr Armin breached Statements of Principle 2 and 7.

Statement of Principle 2

5.3. Mr Armin breached Statement of Principle 2 during the Relevant Period, in that he failed to act with due skill, care and diligence when advising customers on Pension Transfers. His failings meant that the advice he provided did not comply with regulatory requirements and standards, which created a significant risk that his advice that a customer should transfer out of their Defined Benefit Pension Scheme would not be suitable for them. In particular, Mr Armin:

(a) failed to treat his customers fairly as he based his recommendation on the flawed assumption that a transfer to meet a customer's stated objectives was in the customer's best interests. In reality, many customers' objectives were either not realisable or financially viable, or could have been met by the existing scheme;

(b) did not take into account customers' financial situation when assessing whether it was suitable for them to transfer out of their Defined Benefit Pension Scheme. As a result, he failed to assess, or give due consideration to, whether customers would be reliant on the income from their Defined Benefit Pension Scheme or whether they could financially bear the risks involved in a Pension Transfer. He did this despite knowing that, following the recommended transfer, customers' retirement income would be dependent on the performance of the new investment;

(c) failed to undertake cashflow modelling analysis in a timely manner, and as a result he could not give any meaningful consideration to, or provide crucial information to customers about, how their objectives impacted on the sustainability of their pension fund throughout retirement and whether their objectives were realistic or achievable. In several cases, he only carried out cashflow modelling after he had recommended the customer to transfer. For 61 customers, the cashflow modelling was undertaken only after the transfer had been completed. In a further six cases, the cashflow modelling was not undertaken until a point where the Authority considers it was highly unlikely that the customer would be able to stop the transfer. Many of his customers who transferred out of their Defined Benefit Pension Schemes were at risk of depleting their pension fund at an early stage of retirement, and in some cases before their state retirement age, without having any understanding or knowledge of this risk and without being in a position to mitigate this risk once it became known to them (for example by not transferring out of their Defined Benefit Pension Scheme);

(d) failed to conduct any research or obtain information about the alternative options available to members of the Scheme to transferring out of the Scheme following the RAA. Customers were therefore advised on the premise that their only options were to remain in the Scheme or transfer into an alternative pension arrangement. As a result, he failed to give any consideration to, or advice customers on, whether it would be in their interest to transfer into the new Defined Benefit Pension Scheme proposed by the sponsoring employers, or to remain in the Scheme and enter the PPF;

(e) failed to undertake any or any adequate transfer analysis (TVAS) to compare the benefits likely to be paid under the Defined Benefit Pension Scheme with benefits afforded by the personal pension or other pension scheme into which it was proposed that the client should transfer. In 17 out of 30 cases reviewed, he carried out no comparison between the schemes at all. In other cases, he carried out a comparison but did not take all relevant circumstances into account or did not include enough information for the customer to make an informed decision. In any event, Mr Armin rendered futile any comparison he may have carried out, by disregarding the conclusions of any such analysis in arriving at his recommendation to the customer;

(f) told customers who wished to retire early that their Defined Benefit Pension Scheme offered better benefits if they wanted to retire early but nonetheless advised them to transfer, without:

(i) gathering any information or undertaking analysis such that he could compare the early retirement benefits; or

(ii) explaining why he considered it was suitable for a customer to transfer despite his view regarding the early retirement benefits under the Defined Benefit Pension Scheme; and

(g) failed to ensure Suitability Reports he issued to customers contained adequate information about the possible disadvantages of transferring out of their Defined Benefit Pension Scheme (for example, that their pension might run out early in their retirement), having regard to the customer's specific circumstances and objectives. Although Suitability Reports contained caveats and risk warnings regarding Pension Transfers, the Authority considers that the Personal Recommendation was unclear and risked being confusing for customers. The warnings and Personal Recommendation to transfer were often mutually contradictory, with no explanation. The Suitability Reports were not, therefore, clear, fair and not misleading.

Statement of Principle 7

5.4. Mr Armin also breached Statement of Principle 7 during the Relevant Period, in that he failed to take reasonable steps to ensure that RPPS complied with Principles 6 and 9 and COBS 2.1.1R, 9.2.1R, 9.2.2R, 9.2.6R and 19.1.2R as a result of the deficiencies in his advice process and Personal Recommendations he provided to customers that it was suitable for them to transfer.

5.5. As a consequence of his actions, Mr Armin failed to meet the regulatory standards applicable to a Pension Transfer Specialist and in performing significant influence controlled functions. The Authority therefore considers he is not fit and proper to perform:

(a) any senior management function in relation to any regulated activities carried on by an authorised person, exempt person or exempt professional firm; and

(b) any function in relation to the regulated activity of advising on Pension Transfers and Pension Opt Outs carried on by an authorised person, exempt person and exempt professional firm.

6. SANCTIONS

Financial penalty

6.1. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In respect of conduct occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5B sets out the details of the five-step framework that applies in respect of financial penalties imposed on individuals in non-market abuse cases.

Step 1: disgorgement

6.2. Pursuant to DEPP 6.5B.1G, at Step 1 the Authority seeks to deprive an individual of the financial benefit derived directly from the breach where it is practicable to quantify this.

6.3. Mr Armin derived direct financial benefit from the advice fees generated from customers who transferred out of their Defined Benefit Pension Scheme as a result of his deficient Personal Recommendations in respect of Pension Transfers. Pension Transfers represented 93% of RPPS's business during the Relevant Period. The amount received by Mr Armin during the Relevant Period was £953,133. In addition, Mr Armin received £221,904 after the Relevant Period which was directly attributable to Mr Armin's misconduct. The Authority considers that 93% of the total amount he received (less any quantifiable tax liabilities he incurred) stemmed directly from his breaches.

6.4. The Authority has charged interest on Mr Armin's benefits at 8% per year from receipt to the date of this Notice, amounting to £181,839.

6.5. Step 1 is therefore £816,784 (exclusive of interest).

Step 2: the seriousness of the breach

6.6. Pursuant to DEPP 6.5B.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. That figure is based on a percentage of the individual's relevant income. The individual's relevant income is the gross amount of all benefits received by the individual from the employment in connection with which the breach occurred, and for the period of the breach.

The period of Mr Armin's breach of Statement of Principle 2 and 7 was from 8 June 2015 to 13 December 2017. The Authority considers Mr Armin's relevant income for this period to be £953,133.

6.7. In deciding on the percentage of the relevant income that forms the basis of the step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 40%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on individuals in non-market abuse cases there are the following five levels:

Level 1 – 0%

Level 2 – 10%

Level 3 – 20%

Level 4 – 30%

Level 5 – 40%

6.8. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly. DEPP 6.5B.2G(12) lists factors likely to be considered 'level 4 or 5 factors'. Of these, the Authority considers the following factors to be relevant.

Impact of the breach

6.9. Mr Armin's benefits stemming from his breaches were substantial. In particular, RPPS's revenue from Pension Transfer business significantly increased after it started advising members of the Scheme. This increase in revenue benefited Mr Armin because it enabled him to obtain substantially larger benefits from RPPS, which he would not have been able to do had it not been for his breaches (DEPP 6.5B.2G(8)(a)).

6.10. Mr Armin's breach of Statement of Principle 2 also caused a risk of loss to a large number of consumers who transferred out of the Defined Benefit Pension Scheme as a result of Mr Armin's advice (DEPP 6.5B.2G(8)(b).

6.11. Furthermore, as a direct results of Mr Armin's failings, all of RPPS's customers that were advised to transfer out of their Defined Benefit Pension Scheme during the Relevant Period, and in particular customers that were members of the Scheme, many of whom were in a vulnerable position, were at significant risk of doing so when it was not suitable for them to do so or in their best interest (DEPP 6.5B.2G(8)(d)).

Nature of the breach

6.12. Mr Armin's failings occurred over a sustained period (over two years) and resulted in a significant risk of loss for all the customers he advised in respect of Pension Transfers during the Relevant Period (DEPP 6.5B.2G(9)(b)).

6.13. Mr Armin was also an experienced Pension Transfer Specialist, and throughout the Relevant Period he failed to exercise adequate skill, care and diligence when advising customers on Pension Transfers (DEPP 6.5B.2G(9)(j)). He was also solely responsible for the matters that gave rise to the breaches (DEPP 6.5B.2G(9)(l)).

Whether the breach was deliberate and/or reckless

6.14. The breaches committed by Mr Armin were as a result of his serious lack of competence, rather than deliberate or reckless acts (DEPP 6.5B.2G(11)).

Level of seriousness

6.15. DEPP 6.5B.2G(12) lists factors lists factors likely to be considered 'level 4 or 5 factors'. The Authority considers that the fact that Mr Armin's breaches caused a significant risk of loss to customers is particularly relevant (DEPP 6.5B.2G(12)(a)).

6.16. DEPP 6.5B.2G(13) lists factors likely to be considered 'level 1, 2 or 3 factors'. The Authority considers that Mr Armin's breaches of Statements of Principle 2 and 7 were committed negligently (DEPP 6.5B.2G(13)(d)).

6.17. Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 4 and so the Step 2 figure is 30% of £953,133.

6.18. Step 2 is therefore £285,939.

Step 3: mitigating and aggravating factors

6.19. Pursuant to DEPP 6.5B.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.

6.20. The Authority has considered whether any of the mitigating or aggravating factors listed in DEPP 6.5B.3G, or any other such factors, apply in this case and has concluded that none applies to a material extent, such that the penalty ought to be increased or decreased.

6.21. Step 3 is therefore £285,939.

Step 4: adjustment for deterrence

6.22. Pursuant to DEPP 6.5B.4G, if the Authority considers the figure arrived at after Step 3 is insufficient to deter the individual who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.

6.23. The Authority considers that the Step 3 figure of £285,939 represents a sufficient deterrent to Mr Armin and others, and so has not increased the penalty at Step 4.

6.24. Step 4 is therefore £285,939.

Step 5: settlement discount

6.25. Pursuant to DEPP 6.5B.5G, if the Authority and the individual on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP

6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the individual reached agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1. No settlement discount applies.

6.26. Step 5 is therefore £285,900 (rounded down to the nearest £100).

Serious financial hardship

6.27. Pursuant to DEPP 6.5D.1G, the Authority will consider reducing the amount of a penalty if an individual produces verifiable evidence that payment of the penalty will cause them serious financial hardship.

6.28. DEPP 6.5D.2G(7) provides that there may be cases where, even though the individual has satisfied the Authority that payment of the financial penalty would cause them serious financial hardship, the Authority considers the breach to be so serious that it is not appropriate to reduce the penalty. The FCA will consider all the circumstances of the case in determining whether this course of action is appropriate, including whether:

(a) the individual directly derived a financial benefit from the breach, and if so, the extent of that financial benefit (DEPP 6.5D.2G(7)(a); and

(b) the individual has spent money or dissipated assets in anticipation of Authority or other enforcement action with a view to frustrating or limiting the impact of action taken by the FCA or other authorities.

6.29. Mr Armin has claimed that payment of the penalty would cause him serious financial hardship. Whilst Mr Armin has provided some verifiable evidence that payment of the penalty proposed by the Authority would cause him serious financial hardship, he had not provided full and frank disclosure in relation to certain of his assets which he has dissipated. In particular, Mr Armin has informed the Authority that he made payments totalling £107,981 to family members shortly after the Authority informed him of the fact that the Authority would be proposing to impose a financial penalty on him, and the quantum of that penalty. The payments included bank transfers from Mr Armin to family members totalling £27,981 on 11 May 2020, and physical cash withdrawals totalling £80,000 from his bank account between 12 May 2020 and 20 May 2020, which he states he gave to family members. The timing of these payments, and the absence of full and frank evidence being provided in relation to these payments, leads the Authority to conclude that the payments were made by Mr Armin with the intention of frustrating or limiting the impact of the action proposed by the Authority. Furthermore, Mr Armin derived a significant direct benefit from the breaches.

6.30. Having regard to the matters referred to in paragraph 6.29 above and the overall seriousness of Mr Armin's misconduct, which resulted advice being given to customers by Mr Armin that did not comply with regulatory requirements, and fell substantially below the standard of advice expected from an experienced Pension Transfer Specialist, the Authority has decided that it is not appropriate to reduce the financial penalty on the basis that it would cause Mr Armin serious financial hardship.

Proposed penalty

6.31. The Authority therefore has decided to impose a total financial penalty of £1,284,523 on Mr Armin for breaching Statement of Principle 2 and 7.

Prohibition Order

6.32. The Authority has had regard to the guidance in Chapter 9 of EG in considering whether to impose a prohibition order on him. The Authority has the power to prohibit individuals under section 56 of the Act.

6.33. The Authority considers that it is appropriate and proportionate in all the circumstances to prohibit Mr Armin from performing the following functions because he is not a fit and proper person to perform such functions due to his lack of competence and capability:

(a) any senior management function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm; and

(b) any function in relation to the regulated activity of advising on Pension Transfers and Pension Opt Outs carried on by an authorised person, exempt person or exempt professional firm.

7. PROCEDURAL MATTERS

7.1. This Notice is given to Mr Armin under section 57 and 67 and in accordance with the section 388 of the Act.

7.2. The following statutory rights are important.

Decision maker

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

The Tribunal

7.4. The person to whom this Notice is given has the right to refer the matter to the Tribunal. The Tax and Chancery Chamber is the part of the Upper Tribunal, which, among other things, hears references arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the person to whom this Notice is given has 28 days to refer the matter to the Tribunal.

7.5. A reference to the Tribunal is made by way of a reference notice (Form FTC3) signed by the person making the reference (or on their behalf) and filed with a copy of this Notice. The Tribunal's correspondence address is 5th Floor, The Rolls Building, Fetter Lane, London EC4A 1NL.

7.6. Further details are available from the Tribunal website: http://www.justice.gov.uk/forms/hmcts/tax-and-chancery-upper-tribunal

7.7. A copy of Form FTC3 must also be sent to Jonathan Smart at the Financial Conduct Authority, 12 Endeavour Square, Stratford, London E20 1JN at the same time as filing a reference with the Tribunal.

Access to evidence

7.8. Section 394 of the Act applies to this Notice.

7.9. The persons to whom this Notice is given has the right to access:

(1) the material upon which the Authority has relied in deciding to give this Notice; and
(2) the secondary material which, in the opinion of the Authority, might undermine that decision.

Third party rights

7.9. A copy of this Notice is being given to RPPS pursuant to section 393(1) of the Act as a third party identified in the reasons above and to whom in the opinion of the Authority the matter to which those reasons relate is prejudicial. As a third party, RPPS has similar rights of representation, and access to material in relation to the matters which identify it, to those mentioned in paragraphs 7.4 to 7.9 above.

Confidentiality and publicity

7.10. This Notice may contain confidential information and unless it has been published by the Authority, should not be disclosed to a third party (except for the purpose of obtaining advice on its contents). Under section 391(1A) of the Act a person to whom a decision notice is given or copied may not publish the notice or any details concerning it unless the Authority has published the notice or those details.

Authority contacts

7.12. For more information concerning this matter generally, contact Jonathan Smart (direct line: 020 7066 9312/email: Jonathan.Smart@fca.org.uk) or Joan Bailey (direct line: 020 7066 1228/email: Joan.Bailey@fca.org.uk).

Mark Steward
Settlement Decision Maker, for and on behalf of the Authority

Megan Butler
Settlement Decision Maker, for and on behalf of the Authority

ANNEX A

RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. RELEVANT STATUORY PROVISIONS

1.1. The Authority's statutory objectives, set out in section 1B(3) of the Act, include the operational objective of securing an appropriate degree of protection for consumers (section 1C).

1.2. 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.

1.3. 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.

2. RELEVANT REGULATORY PROVISIONS

Principles for Businesses

2.1. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Handbook. They derive their authority from the Authority's rule making powers set out in the Act.

2.2. During the Relevant Period, Principle 6 stated:

"*A firm must pay due regard to the interests of its customers and treat them fairly.*"

2.3. During the Relevant Period, Principle 9 stated:

"*A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment.*"

Statements of Principle and Code of Practice for Approval Persons

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

2.5. During the Relevant Period, Statement of Principle 2 stated:

"*An approved person must act with due skill, care and diligence in carrying out his accountable function.*"

2.6. During the Relevant Period, Statement of Principle 7 stated:

"*An approved person performing an accountable* [significant-influence (in place until 6 March 2016)] or [higher management (in place from 7 March 2016 onwards)] *function must take reasonable steps to ensure that the business of the firm for which they are responsible in their accountable function complies with the relevant requirements and standards of the regulatory system.*"

2.7. 'Accountable higher management functions' includes any accountable function that is an Authority controlled function that is a significant influence function. Significant influence functions include the following controlled functions: CF1 (Director), CF10 (Compliance Oversight) and CF11 (Money Laundering Reporting).

2.8. The Code of Practice for Approved Persons sets out descriptions of conduct which, in the opinion of the Authority, do not comply with a Statement of Principle. It also sets out factors which, in the Authority's opinion, are to be taken into account in determining whether an approved person's conduct complies with a Statement of Principle.

Conduct of Business sourcebook

2.9. The following rules and guidance in COBS (as were in place during the Relevant Period) are relevant to the suitability of Pension Transfer advice given to customers.

2.10. COBS 2.1.1R states that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.

2.11. COBS 9.2.1R states that:

(1) A firm must take reasonable steps to ensure that a personal recommendation, or a decision to trade, is suitable for its client.

(2) When making the personal recommendation or managing his investments, the firm must obtain the necessary information regarding the client's:

(a) knowledge and experience in the investment field relevant to the specific type of designated investment or service;

(b) financial situation; and

(c) investment objectives;

so as to enable the firm to make the recommendation, or take the decision, which is suitable for him.

2.12. COBS 9.2.2R(1) states that a firm must obtain from the client such information as is necessary for the firm to understand the essential facts about him and have a reasonable basis for believing, giving due consideration to the nature and extent of the service provided, that the specific transaction to be recommended, or entered into in the course of managing:

(a) meets his investment objectives;

(b) is such that he is able financially to bear any related investment risks consistent with his investment objectives; and

(c) is such that he has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his portfolio.

2.13. COBS 9.2.2R(3) states that the information regarding the financial situation of a client must include, where relevant, information on the source and extent of his regular income, his assets, including liquid assets, investments and real property, and his regular financial commitments.

2.14. COBS 9.2.6R states that, if a firm does not obtain the necessary information to assess suitability, it must not make a personal recommendation to the client or take a decision to trade for him.

2.15. COBS 19.1.2R states that a firm must:

(1) compare the benefits likely (on reasonable assumptions) to be paid under a defined benefit pension scheme or other pension scheme with safeguarded benefits with the benefits afforded by a personal pension, stakeholder pension scheme or other pension scheme with flexible benefits, before it advises a retail client to transfer out of a defined benefit pension scheme or other pension scheme with safeguarded benefits;

(2) ensure that that comparison includes enough information for the client to be able to make an information decision;

(3) gives the client a copy of the comparison, drawing the client's attention to the factors that do and do not support the firm's advice, in good time, and in any case no later than when the key features document is provided; and

(4) takes reasonable steps to ensure that the client understands the firm's comparison and its advice.

2.15. COBS 19.1.6G states that when advising a client who is, or is eligible to be, a member of a Defined Benefit Pension Scheme or other scheme with safeguarded benefits whether to transfer, convert or opt-out, a firm should start by assuming that a transfer, conversion or opt-out will not be suitable. A firm should only consider a transfer, conversion or opt out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the client's best interests.

2.16. COBS 19.1.7G states that when a firm advises a client on a pension transfer, pension conversion or pension opt-out, it should consider the client's attitude to risk, including, where relevant, in relation to the rate of investment that would have to be achieved to replicate the benefits being given up.

The Fit and Proper Test for Approved Persons

2.17. The part of the Authority's Handbook entitled "The Fit and Proper Test for Approved Persons" ("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.

2.18. 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.

The Authority's policy for exercising its power to make a prohibition order

2.19. The Authority's policy in relation to prohibition orders is set out in Chapter 9 of the Enforcement Guide ("EG").

2.20. EG 9.1 states that the Authority may exercise this power where it considers that, to achieve any of its regulatory 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.

DEPP

2.21. 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.