Financial Conduct Authority

Warning Notice Statement 16/1

The Financial Conduct Authority (the FCA) gave an individual a Warning Notice on **7 December 2015** proposing to take action in respect of the conduct summarised in this statement.

IMPORTANT: a warning notice is not the final decision of the FCA. The individual has the right to make representations to the Regulatory Decisions Committee (RDC) which, in the light of those representations, will decide on the appropriate action and whether to issue a decision notice. The RDC is a Committee of the FCA Board which decides whether the FCA should give certain statutory notices described as within its scope by the FCA's Handbook.

If a decision notice is issued, the individual has the right to refer the matter to the Upper Tribunal which would reach an independent decision on the appropriate action for the FCA to take, if any.

If either the RDC or the Upper Tribunal decides that no further action should be taken, the FCA will publish a notice of discontinuance provided it has the individual's consent.

The following is a summary of the reasons why the FCA gave the individual a warning notice ('the Notice'):

- The individual holds the significant influence functions of CF1 (Director) and CF3 (Chief Executive) at a firm ('the firm') which provided advice to customers who were considering transferring money out of their pension funds into unregulated investments via SIPPs.

- The individual also promoted unregulated investments through an unregulated introducer company ('the introducer firm') in which the individual was a shareholder and director. As a result, the individual benefitted financially from both the fees customers paid for the firm's advice on the SIPP transfer, and the commission the provider of the unregulated investment paid the introducer firm for the sale of the unregulated investment to the customer.

- The FCA considers that the individual contravened Principle 7 of the FCA's Statement of Principles for Approved Persons by failing to take reasonable steps to ensure that the business of the firm, for which the individual was responsible as a CF1 (Director), complied with the relevant requirements and standards of the regulatory system.

- In particular the FCA considers that, during the period specified in the Notice the individual failed to take reasonable steps to ensure that:

    - the firm established a business model under which it provided adequate personal recommendations on pension transfers;

    - the firm's communications with customers in relation to personal recommendations were clear, fair and not misleading;

    - the firm treated customers fairly;

    - the firm complied with relevant regulatory requirements regarding the identification, management, mitigation and disclosure of conflicts of interest; and

    - he identified, managed, mitigated or disclosed adequately his own conflicts of interest arising out of his close connection to the introducer firm.

As a direct result of these failings:

- customers were at significant risk of transferring (and in many cases did transfer) their pension funds into SIPPs which were not suitable for them; and

- customers were not given the opportunity to make that decision in light of sufficient information about the actual and potential conflicts of interest at the firm.