Edmund Rowland 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 Upper 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 Upper Tribunal.

David Rowland, exercising third party rights, has also referred this Decision Notice to the Upper Tribunal which will determine whether to dismiss that reference or remit it to the FCA with a direction to reconsider and reach a decision in accordance with the findings of the Upper Tribunal.

Therefore, the findings outlined in this Decision Notice are provisional in that they reflect the FCA's belief as to what occurred and how it considers the behaviour described should be characterised. The Upper Tribunal's decision will be made public on its website.

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DECISION NOTICE

To: Mr Edmund Lloyd Rowland

Individual Reference Number: ELR01010

Date: 17 January 2023

1. ACTION

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

1.1.1. impose on Mr Edmund Lloyd Rowland a financial penalty of £352,000 pursuant to section 66 of the Act; and

1.1.2. make an order, pursuant to section 56 of the Act, prohibiting Mr Rowland from performing any function in relation to any regulated activity carried on by any authorised or exempt person, or exempt professional firm.

2. SUMMARY OF REASONS

2.1. During the Relevant Period, Mr Rowland played a key role in the creation and dissemination of a document, namely the Presentation, which contained obviously improper advice for potential investors by recommending manipulative trading

strategies, including recommending conduct which could be a criminal offence, had it taken place in the UK. At the time, Mr Rowland was a senior manager in the Firm.

2.2. The Presentation set out the Strategy. The Strategy comprised a multi-faceted approach that included conduct aimed at creating a false or misleading impression as to the market in, or the price of, Qatari bonds, with the objective of harming the economy of Qatar. Creating a false or misleading impression as to the market in, or the price of, Qatari bonds would be an extremely serious matter and potentially a criminal offence if it were to take place in the UK (contrary to section 90 of the Financial Services Act 2012). Section 1H of the Act provides that an offence involving such misconduct amounts to "financial crime" for the purpose of the Act.

2.3. The Strategy included regulated advice (pursuant to article 53 of the Regulated Activities Order and section 22(1) of the Act) aimed at the UAE and/or other states in the Middle East region because it advised those potential investors to transfer their existing holdings of Qatari bonds into a "protected cell company" to "preserve integrity" before manipulative trading intended to destabilise the Qatari economy took place, which trading was to include the purchase of CDS and the sale and purchase of Qatari bonds.

2.4. Mr Rowland tasked employees of the Firm to draft the Presentation. He then emailed it to David Rowland and Individual A, with the intention that it be presented subsequently to representatives of the UAE and/or other states in the Middle East region (who he considered might have reasons to want to put economic pressure on Qatar) as a way of marketing the Firm's services. Mr Rowland also instructed a more junior staff member, Vladimir Bolelyy, to provide a copy of the Presentation to an employee at an Abu Dhabi sovereign wealth fund.

2.5. The Presentation signalled to potential clients that Mr Rowland was willing to be involved in manipulative trading, and allow the Firm to be used to facilitate such potentially unlawful activities. The Authority considers it particularly serious that Mr Rowland, as a person who held a position of significant influence within an authorised firm, was not only involved himself but also engaged a more junior staff member at the Firm to work on the Presentation.

2.6. By virtue of the misconduct described in this Notice Mr Rowland failed to act with integrity in breach of Individual Conduct Rule 1 (COCON 2.1.1R) and demonstrated

that he is not a fit and proper person to perform any function in relation to any regulated activities.

2.7. The Authority has decided to (i) impose on Mr Rowland a financial penalty of £352,000 pursuant to section 66 of the Act, and (ii) make an order prohibiting Mr Rowland from performing any function in relation to any regulated activities carried on by any authorised or exempt person, or exempt professional firm pursuant to section 56 of the Act.

3. DEFINITIONS

3.1. The definitions below are used in this Notice:

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

"the Authority" means the Financial Conduct Authority;

"CDS" means credit default swap;

"COCON" means Code of Conduct in the Authority's Handbook;

"Currency Peg" means a policy in which a national government sets a specific fixed exchange rate for its currency with a foreign currency or a basket of currencies;

"DEPP" means the Decision Procedure and Penalties Manual, part of the Authority's Handbook of Rules and Guidance;

"EG" means the Authority's Enforcement Guide set out in the Authority's Handbook;

"the Financial Institution" means a financial institution being established through a partnership of an Abu Dhabi sovereign wealth fund and the Rowland Family before and during the Relevant Period. It was not a project of the Firm;

"the Firm" means Banque Havilland SA;

"Head Office" means the head office of the Firm in Luxembourg;

"the Indian Article" means an article regarding the Presentation published by an Indian media organisation called the Business Standard, entitled "Gulf Crisis may affect Qatar's security, India's economic interests" on 12 October 2017;

"Individual A" means the individual engaged by the Firm to market its services in the UAE and the wider Middle East region;

"the Intercept" means a media organisation called The Intercept.com;

"the Intercept Article" means an article regarding the Presentation published by the Intercept on 9 November 2017;

"London Branch" means the branch of the Firm based in London;

"MLRO" means Money Laundering Reporting Officer;

"Mr Rowland" means Edmund Lloyd Rowland;

"PERG" means the Perimeter Guidance Manual in the Authority's Handbook;

"the Presentation" means the document drafted by the Firm setting out a series of steps which could be taken to harm the economy of Qatar, by using manipulative trading practices aimed at creating a false or misleading impression as to the market in or the price of Qatari bonds;

"the Regulated Activities Order" or "the RAO" means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

"the Relevant Period" means the period from 12 September 2017 to 13 November 2017;

"the Rowland Family" means the family of David Rowland;

"the SFNH Document" means a document created by David Edward Weller on 14 September 2017 entitled "*Setting Fire to the Neighbour's House fund*" setting out details of a series of steps to devalue the Qatari Riyal by increasing and encouraging selling pressure;

"the Strategy" means the series of steps as set out in the Presentation which could be taken to harm the economy of Qatar by using manipulative trading practices aimed at creating a false or misleading impression as to the market in or the price of Qatari bonds;

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

"UAE" means United Arab Emirates;

"Warning Notice" means the Warning Notice given to Mr Rowland dated 14 October 2021; and

"Wash trade" means a sale or purchase of an instrument where there is no change in beneficial interest or market risk, or where the transfer of beneficial interest or market risk is only between parties acting in concert or collusion, other than for legitimate reasons.

4. FACTS AND MATTERS

Background

Mr Rowland and the Firm

4.1. The Firm was established in 2009 by the Rowland Family and described itself, during the Relevant Period, on its website as "*being managed with the financial conservatism which is the family's hallmark*". The Firm's head office is in Luxembourg. It has various branch offices, including one in London. The Firm was also described on its website as "*an integral part of the [Rowland] Family's interests on both a professional and personal level".*

4.2. During the Relevant Period, Mr Rowland was approved by the Authority to carry out the EEA branch senior manager function ("SMF21") at the Firm. Those holding SMF21 are employees who have significant responsibility for one or more significant business units of a branch of an incoming EEA firm in the UK. Mr Rowland was Chief Executive of the London Branch for almost three years before stepping down in April 2017, after which he retained his SMF21 status. He was formally re-appointed as Chief Executive on 26 September 2017 (part way through the Relevant Period) and continued in this role until his resignation on 13 December 2017. Mr Rowland had considerable managerial influence within the Firm, both in terms of his retention of the SMF21 role and his day-to-day involvement with the London Branch, throughout the Relevant Period. Mr Rowland's responsibilities were, amongst other things, to generate new business and give approval of new projects, manage senior managers in the differing departments, and responsibility for day-to-day decisions.

4.3. The key individuals involved in this matter were all employed in the London Branch, namely, Mr Rowland, David Edward Weller and Vladimir Bolelyy. During the Relevant Period:

4.3.1. Mr Weller was the Head of Asset Management at the London Branch and was also approved by the Authority as a SMF21; he reported to Mr Rowland and to the Firm's Group Head of Asset Management.

4.3.2. Mr Bolelyy was employed by the Firm as a senior investment analyst and was Mr Rowland's assistant reporting directly to him.

4.4. Throughout the Relevant Period, Mr Rowland, Mr Weller and Mr Bolelyy were employed by and received salary from the Firm only.

Marketing in the UAE

4.5. On 18 April 2017, the Firm engaged the services of Individual A to provide "*consulting and professional assistance in developing Banque Havilland in the United Arab Emirates*". His professional assistance was defined as to expand "*the undertaking of Banque Havilland in the UAE and broader Middle East, with specific assistance in terms of strategic marketing, local networking or anything else which will be agreed by the Parties as useful to serve the present purpose"*. Individual A was paid a monthly fee of USD 10,000 for these services. In addition to this consultancy role, Individual A was also a special adviser to the Crown Prince of Abu Dhabi (Abu Dhabi is the capital of the UAE).

The Qatar diplomatic crisis

4.6. In June 2017, as was widely reported in the press, a Saudi-led coalition of Gulf states (including the UAE) severed diplomatic relations with Qatar, citing Qatar's alleged support for terrorism as the main reason. The Qatari Riyal had a currency peg with the US Dollar throughout the Relevant Period.

30 August 2017 meeting

4.7. On 30 August 2017, at a meeting organised by Individual A, Mr Rowland and David Rowland (Mr Rowland's father and the ultimate controller of the Firm) met with a senior representative of a UAE sovereign wealth fund. Prior to that meeting, on 27 August 2017, Mr Rowland had referred to the forthcoming meeting and stated to a colleague: *"they have another potential opportunity they want me to look at also"*. Mr Rowland told the Authority during an interview that at this meeting it was made clear to him, in the absence of David Rowland, that the UAE sovereign wealth fund's representatives were concerned about the substantial exposure that Emirati banks had in the interbank market to Qatar and particularly to the local banking sector. This was due to the situation between Qatar and the UAE and the representatives' fears that the stand-off would be significantly extended as no rapprochement seemed to be on the horizon. This was a reference to the political tensions in that region which had worsened since June 2017.

The Presentation

4.8. At some point after the 30 August 2017 meeting and no later than 12 September 2017, Mr Rowland tasked Mr Bolelyy with preparing a written presentation as to how economic pressure might be put on Qatar. Subsequently, on 12 September 2017 Mr Bolelyy sent himself an email recording the following matters in a number of bullet points, all of which he then included in the first draft: *"Bond exposure; What natters [sic] is western view; Foreign reserves; Currency peg break; Cash to pay for insurance; "Sanctions don't work unless everyone is doing it"; Currency peg pressure is effective when thought by everyone; Avoid jargon; Segregated vehicle".*

4.9. The first draft of the document which became the Presentation, prepared by Mr Bolelyy on 12 September 2017 in the form of slides, was named *"Qatar Opportunity"* and proposed a series of steps with the purpose of devaluing the Qatari Riyal and breaking its peg to the US Dollar.

13 September 2017 meeting

4.10. On the following day, 13 September 2017, a meeting was convened at short notice of various individuals in the London Branch; these individuals were Mr Rowland, Mr Weller, Mr Bolelyy, another employee of the Firm and an individual not employed by the Firm.

4.11. At the meeting, which appears to have lasted for about a quarter of an hour and was subsequently described by Mr Weller as a brain-storming session, Mr Rowland asked for ideas on how negatively to impact the Qatari economy by undermining the value of the country's currency. Mr Rowland explained that Saudi Arabia, Abu Dhabi [sic] and Egypt were keen as nation states to persuade Qatar to stop some of its funding activities. He further explained that the 3 countries had a combined $23 billion of Qatari assets that they were prepared to use to pressure the Qatari Riyal. Mr Rowland went on to state that the potential economic interest for the Rowland Family would come from being able to charge a small fee on the assets which would be transferred to a vehicle arranged by the Rowland Family.

4.12. The Authority infers that Mr Rowland intended for the Presentation to be presented to representatives of the UAE and/or other states in the Middle East region who he considered might have reasons to want to put economic pressure on Qatar, and that Mr Rowland was motivated by the potential to earn fees for Rowland Family interests which included the Firm. Regardless of whether the Strategy as set out in the Presentation was practicable or likely to be accepted by such representatives, the Authority concludes that it was a way of signalling to potential clients that Mr Rowland and the Firm were willing to countenance improper market conduct in order to advance their interests.

4.13. Following this meeting, none of the attendees raised any concerns with the Firm's MLRO or to any other senior manager. In addition, no concerns were raised to Head Office or via the Firm's whistle-blowing procedures.

Iterations of the Presentation

4.14. Later that day, 13 September 2017, Mr Bolelyy emailed the attendees of the earlier meeting to request their "*credible, high-level ideas re: a possible transaction structure*" and asked that they "*jot something coherent down*". He explained that what he described as the "*winning idea*" would go into a presentation, the drafting of which he would take care of, and that it would be shared and discussed at a "*high level*", which the Authority infers meant at least Mr Rowland, who was copied into this request.

4.15. On 14 September 2017, Mr Bolelyy emailed a draft of the Presentation to Mr Rowland and stated as follows: "*Attached is a work in progress based on fragments*

of information exchanged so far. As discussed yesterday, it will be useful for all of us to sit down and nail down the basic skeleton. When can you do today?".

4.16. This version of the Presentation included further details of the Strategy, specifically regarding the stated aim of putting pressure on the Qatari Riyal to such an extent that the Qatar National Bank would need to deploy significant portions of Qatar's foreign exchange reserves to maintain its value in relation to the US Dollar.

4.17. This version of the Presentation also explicitly stated that "*maintaining the* [currency] *peg requires extensive use of central bank foreign exchange reserves. Existing G$15bn [sic] of Qatari bonds represent close to 50% of all central bank reserves available*" and noted that "*the selling pressure* [generated by the Strategy] *creates upward pressure on the Qatari Riyal-US Dollar peg and forces Qatar National Bank to defend it by decreasing available foreign exchange reserves*".

4.18. The Presentation envisaged the purchasing of Qatari bonds, deployment of long CDS and long credit forwards with the express aim of negatively impacting the value of the Qatari Riyal against the US Dollar.

4.19. Later on 14 September 2017, in response to Mr Bolelyy's previous request for contributions to what he described as '*a possible transaction structure'*, Mr Weller emailed a document to Mr Bolelyy which contained his ideas. Mr Weller has subsequently stated that this document reflected what had been discussed amongst the participants at the meeting on the previous day, together with some research he had conducted through open sources on the internet. The document was entitled "Setting Fire to the Neighbour's House fund" ("the SFNH Document") and set out more details of the Strategy, namely, to devalue the Qatari Riyal by increasing and encouraging selling pressure. The SFNH Document ended with a cartoon depicting Qatar and the statement "*Repeat as desired*". Mr Weller has subsequently stated that he did not regard the contents of the SFNH Document as representing a serious proposal and that it was simply reflective of a subject Mr Rowland wished to explore.

4.20. The steps set out in the SFNH Document proposed to "[q]*uietly pick up some Qatar paper*", or bonds "*2026s and 2030s*", using *"old school account painting"* to *"get some ownership"* which would be used to "[c]*ontrol the yield curve"* by co-operating

parties "*acting in concert"* trading back and forth at incrementally lower prices. The final step in this stage would be to "*dump*" these holdings on the open market, driving the bond "*price further down and* [to be then] *picked back up* [by] *the original seller".*

4.21. Following this, the plan was to "[e]*stablish positions in Forwards on Riyal, options where possible",* (…) "*get long the CDS slowly with larger houses, just enough to move the price to make it news worthy*".

4.22. Next, "[f]*ire up the PR machine… to remind people there is [a] problem with Qatar…*". A further increase of the CDS position was advised and then, "*PR wave two"* stating that *"despite the massive SWF [sovereign wealth fund], pressure is building that could see Qatar having restricted access to Dollar…* [and] *credit rating may be affected with the long-term future of the country now in doubt… Peg won't break, though credit markets will be looking shambolic*…*Once fire fully alight clear out the* [UAE Dirham] *specs for a profit".*

4.23. Accordingly, the SFNH Document proposed a way in which the Qatari Riyal/US Dollar currency peg might be attacked. In summary, the SFNH Document suggested a series of steps namely: (1) building up a portfolio of specific Qatari debt without attracting attention by parties acting in concert in a series of Wash trades, (2) later dumping the position in order to create a false impression in the market of a flight from Qatari debt, (3) opening a CDS position on the debt (bonds) and then 'dumping' the said debt to drive the price down, (4) increasing and closing the CDS position in order to add negative pressure on Qatari assets/currency/economy, to profit from the manipulative bond trading, and increasingly stressed markets, and (5) using a PR campaign deliberately magnifying the false impression to increase selling of the Qatari Riyal or Qatari bond holdings and encourage other market participants to do likewise.

4.24. In the evening of 14 September 2017, Mr Bolelyy took most of the content from the SFNH Document and added it to the draft Presentation, including the content set out in the bullet points in the paragraph below.

4.25. Thereafter until 18 September 2017 Mr Bolelyy actively worked on the Presentation which in its final form was entitled "Distressed Countries Fund" and set out in detail the Strategy, which included the following:

- "*To preserve integrity of existing Qatari bond holdings, an in-situ transfer will be arranged into a protected cell company"*;

- "*Gear up to control the yield (and thus bond prices)"* by purchasing "*medium and long-term Qatar paper*", as it "*should favourably affect CDS pricing at later stage*";

- "*Establish a crossing transaction arrangement whereby another affiliated party sells the same bond holdings back to the original seller and thereby creates additional downward pressure*";

- "*Purchase CDS on Qatar* (…) *to move the price sufficiently to make it newsworthy*";

- "*Fire up the PR Machine to remind people there is a problem with Qatar*";

- "*Increase the positions*", by "*buying additional CDS*" to lead to "*falling of bond price, raising rates, and escalation in CDS premia*";

- "*Refresh the PR message to add more fuel to the fire*", as it will "*focus on the prospect of restricted access to US Dollar and now-doubtful stability of the country"*;

- "*FIFA Option…Qatar has committed to $200BN of spending for its hosting of 2022 World Cup…negative publicity can resurface around the original award of the tournament…If Qatar now spends its reserves on protecting the currency and domestic credit markets, there is less dry powder to fund the infrastructure spending".*

4.26. The finalised Presentation therefore outlined how to impact the economy of Qatar negatively through manipulative trading practices, including direct reference to crossing transactions between two parties working in conjunction with the stated aim of artificially driving down the price of Qatari government-backed bonds, therefore weakening Qatar financially, in other words Wash Trades. The Strategy included a coordinated PR strategy designed to increase the pressure placed upon Qatar in addition to the existing sanctions and force the Qatari government to utilise

its central bank foreign exchange reserves to maintain the currency peg between the Qatari Riyal and the US Dollar. As such the Presentation clearly contemplated manipulative trading which aimed to create a false or misleading impression as to the market in or the price of Qatari bonds which, if conducted in the UK, could amount to a criminal offence (contrary to section 90 of the Financial Services Act 2012).

What then happened to the Presentation

4.27. On 18 September 2017, in preparation for a scheduled visit to Abu Dhabi by Mr Rowland, David Rowland and Mr Bolelyy, Mr Bolelyy emailed a copy of the Presentation to his personal email account and, at Mr Rowland's request, printed two copies for Mr Rowland to take with him to Abu Dhabi.

4.28. Following a request from Mr Rowland to send him a soft copy of *"the Qatar presentation in the morning"*, Mr Bolelyy also emailed him the final version of the Presentation at approximately 7pm on 18 September 2017. Mr Bolelyy informed Mr Rowland that it was the latest version and the same as Mr Bolelyy had given him that afternoon *"for review".*

4.29. Mr Rowland immediately forwarded the Presentation to Individual A, with whom he had had a meeting at the Firm's London Branch five days' earlier. He also forwarded a copy of the Presentation to David Rowland.

4.30. Mr Rowland explained in interview with the Authority that he requested Mr Bolelyy to print copies of the Presentation "*because it was related to the UAE*" and confirmed that the Abu Dhabi trip was an opportunity potentially to discuss the Presentation with senior individuals, including from an Abu Dhabi sovereign wealth fund. During the trip, Mr Bolelyy provided a copy of the Presentation to an employee of this Abu Dhabi sovereign wealth fund.

4.31. For an authorised firm to contemplate such a course of action (including recommending conduct which could be a criminal offence if it took place in the UK), intending it to be presented to potential investors indicates a clear lack of integrity. This is regardless of whether the Strategy set out in the Presentation was achievable in reality (either by the Firm or by potential investors or recipients

of the Presentation). Mr Rowland directed the creation of the Presentation and also directed the dissemination of the Presentation externally.

Press reports and the Firm's response

4.32. Mr Rowland, David Rowland and Mr Bolelyy visited Abu Dhabi from 21 to 25 September 2017. The Presentation was later reported in the media to have reached the email inbox of the UAE Ambassador to the US between 18 September and 12 October 2017 and was said to have been stored under the heading "Rowland Banque Havilland". The UAE Ambassador to the US subsequently stated to the Firm's legal advisers in New York (through his own legal advisers) that he "*did not receive the Presentation*". The Presentation eventually became publicly available on the internet (see below).

12 October 2017

4.33. On 12 October 2017, as part of a pattern of sending press reports regarding Qatar to the attendees of the 13 September 2017 meeting, Mr Weller discovered an article by an Indian media organisation called the Business Standard, entitled "*Gulf Crisis may affect Qatar's security, India's economic interests*" ("the Indian Article").

4.34. The Indian Article referred to leaked or stolen emails from the Firm allegedly found in the inbox of the UAE Ambassador to the US. The article claimed that these emails revealed an "*economic warfare strategy"* which involved *"setting up a confidential commercial entity with sizeable size to buy certificate of deposits (CDs) of Qatari banks, then selling the CDs back to original sellers at a lower price, thereby reducing the market pricing. Negative global public relations campaign is done, showing instability in Qatar as a key reason for this downward pressure on CDs pricing. This will ultimately either force Qatar's financial ministry to either break the currency peg, or at least spend a lot of dollar reserves to maintain their pricing when panic initiates global buyers to sell Qatari Riyal*." The article stated that "*David Rowland* (…) *could be serving UAE's interests in the ongoing spat. He is the man behind the meteoric rise of Banque Havilland…*".

4.35. At 12.35pm on 12 October 2017, Mr Weller emailed a link to the Indian Article to Mr Rowland, who had by then resumed his position as Chief Executive of the London Branch. Mr Rowland responded at 12.42pm with "*made me laugh*".

4.36. At 3.02pm, Mr Weller sent a further email to Mr Rowland saying, "*trending on Qatari twitter as I type*" with an image from the social media site, Twitter, showing the following: *"#UAE targeted #Qatar's Economy using… Rowland's Banque Havilland amid #GulfCrisis*…"

4.37. At 4.10pm David Rowland and Mr Rowland discussed the Indian Article on the telephone. David Rowland asked Mr Rowland "*What about that thing in the Indian paper? How do you think that got there*?" Mr Rowland responded "*Probably, I assume – probably a leak from their office I would imagine…. never been talked to anyone else, so…don't matter. Use it as a badge of honour when we go and see them next time*". The Authority infers that "*their office*" refers to the office of the Abu Dhabi Sovereign Wealth Fund which had been provided with a copy of the Presentation during the visit referred to at paragraph 4.32 above.

4.38. Neither Mr Weller nor Mr Rowland forwarded either email to the Firm's Compliance officer, or to the Head Office, or took any other steps to inform other senior management of the allegations. In addition, neither individual, nor anyone else at the Firm, informed the Authority of these concerns.

13 October 2017

4.39. The next day, a journalist from a media organisation called The Intercept.com ("the Intercept") contacted the lawyer who represented the Firm in the US to obtain a comment regarding the discovery of the Presentation in the mailbox of the UAE Ambassador to the US. The journalist provided specific details of the Presentation that would have allowed Mr Rowland to discover it on the Firm's systems, stating that he should search for "*'Qatar Opportunity' and 'Distressed Countries Fund.' The Mission Statement includes: 'Control the Yield curve, decide the future"*.

4.40. At 6.49pm David Rowland telephoned Mr Rowland. They discussed how their mobile phones may have been hacked while they were in Abu Dhabi. Mr Rowland said "*Yes, if I was to guess. Nothing wrong, if you look at the two things they've got, there's nothing wrong with the two things, …There's nothing in them*". The Authority considers that this conversation indicates that Mr Rowland was aware of the Presentation and its contents. David Rowland asked Mr Rowland what he was intending to say to the Firm's US lawyer. Mr Rowland said that his "*plan*" was to

say: "*Banque Havilland S.A does not trade in bonds, securities, CDS or any instruments of Qatar names and has no plans to. Banque Havilland is a prestigious private banking group and will make no further comments on politically motivated storylines*". David Rowland replied that he "*like[d] that*". Mr Rowland later said to David Rowland that "*our story just has to be it's purely politically motivated because of our, because of your friendship with the Crown Prince, leave it, that might bring us a lot of points*."

4.41. The Firm's response to the Intercept, as directed by Mr Rowland, was as worded above.

4.42. However, Mr Rowland took no steps to look for the Presentation on the Firm's internal systems or to investigate whether the allegations had any substance.

18 October 2017

4.43. The journalist from the Intercept contacted the Firm's US lawyer again on 18 October 2017 and informed him that he was aware that Mr Bolelyy was the author of the document in the Intercept's possession. The journalist also provided further questions that he wanted the Firm to answer prior to moving forward with publication of the story. These questions provided indications of the content of the document, including: ""*Has the plan outlined in the "Distressed Countries Fund" [the Presentation] document commenced? If so, when did it begin? If not, when is it planned to begin, if at all? .... Is Banque-Havilland helping the UAE undermine the economy of Qatar so that the UAE can gain diplomatic advantage*?".

4.44. These further questions were shared with Mr Rowland by the Firm's US lawyer, and were forwarded on to senior individuals at Head Office and also to David Rowland. The Firm's US lawyer suggested responding as follows: *"Banque Havilland reaffirms that it is not participating in and has never participated in any trading in the currency, bonds or other derivatives of Qatar. The plans described in that document do not include any participation by BH [Banque Havilland]".* As before, Mr Rowland took no steps to identify the document on the Firm's internal systems or to discuss the document with the staff involved, despite the specific reference by the Intercept journalist to Mr Bolelyy as the author of the document. In addition, Mr Rowland failed to notify the Authority that an article containing these allegations was going to be published.

4.45. At 6.50pm, David Rowland and Mr Rowland further discussed the matter on the telephone. Mr Rowland said that the Intercept had "*obviously only got the attachment*".

19 October 2017

4.46. On 19 October 2017, David Rowland telephoned Mr Rowland at 1.30pm. They discussed the [suspected] hacking of their mobile telephones. David Rowland said *"We can capitalise on this … and we don't put any – don't let's put anything on the Bank emails."* Mr Rowland agreed with David Rowland's suggestion.

4.47. Mr Rowland and David Rowland then discussed taking Mr Bolelyy off the Firm's payroll as soon as they could and transferring him from the Firm to another Rowland Family entity. David Rowland said *"All we've got to do is play by the fucking rules and we have, we've not broken any fucking laws".* Mr Rowland responded by saying *"No. The answer is if they ever write to you, you just say, all you've got to say to them, is that the Bank was not involved in anything. But the principal is asked of hedging strategies to protect their 15 billion dollar investment. That's all you've got to say".* David Rowland responded by saying that he liked that. Mr Rowland further said that *"We know that's what you're allowed to - and if you look at the Presentation that's all it says. This is how you protect the value of your 15 billion dollar investment. And then everyone will understand, even the jokers down there".* David Rowland stated that *"You can capitalise on all this shit".*

9 November 2017

4.48. On 9 November 2017, the Intercept published the Intercept Article, stating that the Presentation had been found in the inbox of the UAE Ambassador to the US and providing copies of some of the Presentation slides. The article was titled "*Leaked Documents Expose Stunning Plan To Wage Financial War On Qatar (…)*" and explained that "*economic warfare involved an attack on Qatar's currency using bond and derivatives manipulation….The outline, prepared by Banque Havilland, (…) laid out a scheme to drive down the value of Qatar's bond and increase the cost of insuring them, with the ultimate goal of creating a currency crisis that would drain the country's cash reserves*".

4.49. The content of the pages featured in the Intercept Article were identical to the Presentation as sent by Mr Rowland to Individual A and David Rowland on 18 September 2017. The Intercept Article identified Mr Bolelyy as the creator of the Presentation, according to the metadata of the document obtained by the Intercept.

4.50. The publication of the Intercept Article led to the immediate resignation of Mr Bolelyy on 9 November 2017, and an internal investigation was initiated by Head Office on 13 November 2017.

4.51. On 14 November 2017 Mr Rowland telephoned the Authority on behalf of the Firm, providing limited information regarding the events referred to above and the involvement of the Firm. This was followed up by an email from Mr Rowland to the Authority on 15 November 2017 noting what was said in the call, as follows: *"1. An article mentioning a junior analyst name [sic] for the creation of a non bank presentation. 2. A forensic investigation being held. 3. The groups [sic] regulator CSSF was informed. 4. The PR firm the group uses has clarified the facts. 5. We will share the findings of the investigation once complete subject to CSSF approval".*

4.52. On 13 December 2017 Mr Rowland resigned as an employee, Chief Executive of the London Branch and member of executive management of the Firm with immediate effect, and Mr Weller left the Firm on 10 April 2018.

5. FAILINGS

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

Individual Conduct Rule 1: You must act with integrity

5.2. Individual Conduct Rule 1 required Mr Rowland to act with integrity in relation to the performance by him of functions relating to the carrying on of activities (whether or not regulated activities) by the Firm. During the Relevant Period, Mr Rowland breached this requirement, whilst acting as an approved senior manager of the Firm's London Branch (SMF21), by creating and disseminating the Presentation.

5.3. Mr Rowland failed to act with integrity because the Strategy set out a multi-faceted approach that included conduct aimed at creating a false or misleading impression as to the market in or the price of Qatari bonds, with the objective of harming the economy of Qatar. Creating a false or misleading impression as to the market in, or the price of, Qatari bonds could be a criminal offence if it took place in the UK (contrary to section 90 of the Financial Services Act 2012). Section 1H of the Act provides that an offence involving such misconduct amounts to "financial crime" for the purpose of the Act. Through the Presentation, Mr Rowland deliberately designed a manipulative trading strategy intended to serve what he believed to be the political interests of certain nation states and, in doing so, he put an authorised firm at risk of facilitating financial crime. He did this in an attempt to produce economic benefits for the Rowland Family interests (including the Firm) and himself by creating and enhancing what he believed to be important relationships with influential people in the UAE and elsewhere in the Middle East.

Not Fit and Proper

5.4. The Authority considers that Mr Rowland's actions as described in this Notice demonstrate that he lacks fitness and propriety because he lacks integrity.

6. SANCTION

Financial penalty

6.1. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. 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. The Authority has not identified any financial benefit that Mr Rowland derived directly from his breach.

6.4. Step 1 is therefore £0.

Step 2: the seriousness of the breach

6.5. 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.

6.6. As Mr Rowland's breach lasted less than 12 months, the relevant income will be that earned by him in the 12 months preceding the last day of his breach, being 13 November 2017. The Authority considers Mr Rowland's relevant income for this period to be £44,000.

6.7. In deciding on the percentage of the relevant revenue 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 has taken into account various factors which reflect the impact and nature of the breach, including that he held a senior position in the Firm and caused more junior employees at the Firm to commit breaches; and whether it was committed deliberately or recklessly. DEPP 6.5B.2G(12) lists factors which are likely to be considered 'level 4 or 5 factors'. Of these, the Authority considers the following factors to be most relevant:

6.8.1. Mr Rowland actively encouraged conduct which potentially could be a criminal offence, and financial crime, were it to take place in the UK in the hope that the Firm and/or the Rowland Family would profit;

6.8.2. Mr Rowland failed to act with integrity; and

6.8.3. his breach was committed deliberately.

6.9. DEPP 6.5B.2G(13) lists factors likely to be considered 'level 1, 2 or 3 factors'. Of these, the Authority considers the following factors to be relevant:

6.9.1. Mr Rowland made no profit as a result of the breach.

6.10. Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 5 and has determined that the appropriate Step 2 figure is 40% of £44,000.

6.11. Step 2 is therefore £17,600.

Step 3: mitigating and aggravating factors

6.12. 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.

6.13. The Authority considers that there were no factors which aggravate or mitigate the breach.

6.14. Step 3 is therefore £17,600.

Step 4: adjustment for deterrence

6.15. 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.

6.16. In light of the seriousness of the breach and the position held by Mr Rowland during the Relevant Period, the Authority considers that the Step 3 figure of £17,600 is insufficient to deter Mr Rowland, or others, from committing further or similar breaches. The Authority has increased the penalty at Step 4 by a multiple of 20.

6.17. Step 4 is therefore £352,000.

Step 5: settlement discount

6.18. 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.

6.19. Mr Rowland and the Authority did not reach an agreement so no discount applies to the Step 4 figure. The Step 5 figure is therefore £352,000.

Penalty

6.20. The Authority has therefore decided to impose a total financial penalty of £352,000 on Mr Rowland for breaching Individual Conduct Rule 1 (COCON 2.1.1R).

Prohibition Order

6.21. As stated above, the Authority considers that Mr Rowland actions as described in this Notice demonstrate that he lacks fitness and propriety because he lacks integrity. As such, the Authority believes that it is appropriate to prohibit Mr Rowland from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm.

7. REPRESENTATIONS

7.1. Annex B contains a brief summary of the key representations made by Mr Rowland, and by David Rowland as a third party, in response to the Warning Notice and how they have been dealt with. In making the decision which gave rise to the obligation to give this Notice, the Authority has taken account of all of the representations

made by Mr Rowland and by David Rowland as a third party, whether or not set out in Annex B.

8. PROCEDURAL MATTERS

8.1. This Notice is given under sections 57 and 67 of the Act and in accordance with section 388 of the Act.

Decision maker

8.2. The decision which gave rise to the obligation to give this Notice was made by the RDC. The RDC is a committee of the Authority which takes certain decisions on behalf of the Authority. The members of the RDC are separate to the Authority staff involved in conducting investigations and recommending action against firms and individuals. Further information about the RDC can be found on the Authority's website:

http://www.fca.org.uk/about/committees/regulatory-decisions-committee-rdc

The Tribunal

8.3. Mr Rowland has the right to refer the matter to which this Notice relates to the Tribunal. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, Mr Rowland has 28 days from the date on which this Notice is given to him to refer the matter to the Tribunal. A reference to the Tribunal is made by way of a signed reference notice (Form FTC3) filed with a copy of this Notice. The Tribunal's contact details are: Upper Tribunal, Tax and Chancery Chamber, Fifth Floor, Rolls Building, Fetter Lane, London EC4A 1NL (tel: 020 7612 9730; email: fs@hmcts.gsi.gov.uk).

8.4. Further information on the Tribunal, including guidance and the relevant forms to complete, can be found on the HM Courts and Tribunal Service website:

http://www.justice.gov.uk/forms/hmcts/tax-and-chancery-upper-tribunal

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

8.6. Once any such referral is determined by the Tribunal and subject to that determination, or if the matter has not been referred to the Tribunal, the Authority will issue a final notice about the implementation of that decision.

Access to evidence

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

8.8. The person 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

8.9. A copy of this Notice is being given to David Rowland 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, David Rowland has similar rights to those mentioned in paragraphs 8.3 and 8.8 above in relation to the matter which identifies him.

Confidentiality and publicity

8.10. This Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining advice on its contents). In accordance with section 391 of the Act, a person to whom this 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.

8.11. However, the Authority must publish such information about the matter to which a Decision Notice or Final Notice relates as it considers appropriate. The persons to whom this Notice is given or copied should therefore be aware that the facts and matters contained in this Notice may be made public.

Authority contacts

8.12. For more information concerning this matter generally, contact Victoria Chaloyard at the Authority: direct line: 020 7066 3108/ e-mail: victoria.chaloyard@fca.org.uk.

Tim Parkes
Chair, Regulatory Decisions Committee

ANNEX A

RELEVANT STATUTORY PROVISIONS

1.1. The Authority's operational objectives, set out in section 1B(3) of the Act, include the integrity objective of protecting and enhancing the integrity of the UK financial system, which includes it not being used for a purpose connected with financial crime.

1.2. Section 56 of the Act provides that the Authority may make a prohibition order if it appears to the Authority that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, 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.

1.4. Section 66A of the Act provides that for the purposes of action by the Authority under section 66, a person is guilty of misconduct if any of conditions A to C is met in relation to the person. Section 66A(2) sets out Condition A, which during the Relevant Period stated that:

"(a) the person has at any time failed to comply with rules made by the FCA under section 64A, and

(b) at that time the person was –

(i) an approved person,

(ii) an employee of a relevant authorised person, or

(iii) a director of an authorised person."

1.5. Section 66(3)(a) and (b) of the Act provides that if the Authority is entitled to take action against a person under section 66, it may impose a penalty on him of such amount as it considers appropriate, or publish a statement of his misconduct.

1.6. Section 1H of the Act provides:

"(3) "Financial crime" includes any offence involving

(a) fraud or dishonesty,

(b) misconduct in, or misuse of information relating to, a financial market.

(4) "Offence" includes an act or omission which would be an offence if it had taken place in the United Kingdom."

1.7. Section 90 of the Financial Services Act 2012 provides that:

"(1) a person ("P") who does any act or engages in any course of conduct which creates a false or misleading impression as to the market in or the price or value of any relevant investments commits an offence if—

(a) P intends to create the impression, and

(b) the case falls within subsection (2) or (3) (or both).

(2) The case falls within this subsection if P intends, by creating the impression, to induce another person to acquire, dispose of, subscribe for or underwrite the investments or to refrain from doing so or to exercise or refrain from exercising any rights conferred by the investments.

(3) The case falls within this subsection if—

(a) P knows that the impression is false or misleading or is reckless as to whether it is, and

(b) P intends by creating the impression to produce any of the results in subsection (4) or is aware that creating the impression is likely to produce any of the results in that subsection.

(4) Those results are—

(a) the making of a gain for P or another, or

(b) the causing of loss to another person or the exposing of another person to the risk of loss."

1.8. Article 53(1) of the Regulated Activities Order provided that advising a person is a specified kind of activity if the advice is-

(a) given to the person in his capacity as an investor, or potential investor, or in his capacity as agent for an investor or a potential investor; and

(b) advice on the merits of his doing any of the following (whether as principal or agent)-

(i). buying, selling, subscribing for or underwriting a particular investment which is a security, structured deposit or a relevant investment, or

(ii). exercising any right conferred by such an investment to buy, sell, subscribe for or underwrite such an investment.

1.9. Section 22(1) of the Act provides that an activity is a regulated activity for the purpose of the Act if it is an activity of a specified kind which is carried on by way of business and (a) relates to an investment of a specified kind.

2. RELEVANT REGULATORY PROVISIONS

2.1. The Code of Conduct Sourcebook (COCON) was issued under section 64A of the Act. COCON sets out the rules of conduct which apply to individuals within the scope of COCON, which during the Relevant Period included SMF managers according to COCON 1.1.2R(1).

2.2. COCON 1.1.6R provides that in relation to 'a person (P) who is an approved person, COCON applies to the conduct of P in relation to the performance by P of functions relating to the carrying on of activities (whether or not regulated activities) by the firm on whose application approval was given to P'.

Individual conduct rules

2.3. Chapter 2 of COCON sets out the Individual Conduct Rules. COCON 2.1.1R (Individual Conduct Rule 1) provides that a person must act with integrity.

The Fit and Proper Test for Employees and Senior Personnel ("FIT")

2.4. The part of the Authority's Handbook entitled "The Fit and Proper Test for Approved Persons" sets out the criteria that the Authority will consider when assessing the fitness and propriety of a candidate whom the firm is proposing to put forward for

approval as an FCA-approved SMF manager. FIT is also relevant in assessing the continuing fitness and propriety of a person approved to perform the function of an FCA-approved SMF manager.

2.5. 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. In the Authority's view, the most important considerations will be the person's honesty, integrity and reputation; competence and capability; and financial soundness.

Enforcement Guide ("EG")

2.6. The Authority's policy for exercising its power to make a prohibition order is set out in Chapter 9 of EG.

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.

Decision Procedure and Penalties Manual ("DEPP")

2.7. Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's statement of policy on the imposition of a financial penalty or public censure. In particular, DEPP 6.5B sets out the five steps for penalties imposed on individuals in a non-market abuse case in respect of conduct taking place on or after 6 March 2010.

ANNEX B: REPRESENTATIONS

1. A summary of the key representations made by Mr Rowland, and by the third party, David Rowland, and the Authority's conclusions in respect of them (in bold type), is set out below.

Mr Rowland's Representations

The Background

2. It is necessary to consider the wider context within which the matters in this case occurred.

3. Mr Rowland, and David Rowland, often find themselves subject to (unwanted) press interest and press intrusion. Mr Rowland's experiences with the press over the years has left him very cynical of journalists, including when they engage on matters relating to the Rowland Family's business interests.

4. Mr Rowland's priority during the Relevant Period was working on the Financial Institution, and he stood down as the Chief Executive of the London Branch of the Firm in April 2017, so he could focus on the Financial Institution, including obtaining regulatory approval for it from the relevant financial services regulator. This meant that Mr Rowland had to make himself subject to intense regulatory scrutiny in the UAE, including by attending numerous long interviews with the relevant regulator. In circumstances where Mr Rowland was subjecting himself to such intense regulatory scrutiny, Mr Rowland was particularly alive to the risk of any missteps that might impact the prospects of the Financial Institution securing the necessary regulatory approval. The Financial Institution was not a Firm venture (it was non-Bank Business).

5. Following his resignation in April 2017, Mr Rowland's executive responsibilities within the London Branch came to an end, although he continued to work from the London Branch's office irregularly and he was therefore available to provide ad-hoc assistance to anyone in the office who asked for it. On about 26 September 2017, Mr Rowland accepted a request from the departing Chief Executive to act as caretaker Chief Executive.

6. Individual A has been based in the UAE for over 20 years; he has been a friend and close confidant of Mr Rowland and David Rowland for many years. Individual A has considerable expertise in doing business in the Middle East and is very well connected. He has been a trusted advisor to Mr Rowland and David Rowland, particularly in relation to any issues connected with the Middle East. For this reason, whenever Mr Rowland shared information with David Rowland about wider business interests in the Middle East, Mr Rowland would generally share the same information with Individual A.

<u>The Presentation</u>

7. On 30 August 2017, Mr Rowland and David Rowland met by appointment a senior representative of a UAE sovereign wealth fund in the bar and coffee areas of a London hotel. The meeting was fairly informal and was intended to cover *"Hellos, Football, the Financial Institution, RDIF, Request".* Towards the end of the meeting, while David Rowland was in the cloakroom, the senior representative mentioned to Mr Rowland that UAE banks had holdings in Qatari bonds and that consideration was being given to ways in which the risks associated with those holdings could be ring-fenced; the UAE needed to hedge its Qatari assets, because the value of those assets was being adversely affected by the UAE's diplomatic actions against Qatar. He asked Mr Rowland to put together a few pages of ideas on how this might be achieved. Mr Rowland understood that the senior representative was referring to Qatari bonds held by UAE banks. The request to Mr Rowland was very general, vague and high-level and there was no deadline. Mr Rowland therefore considered the request as an unimportant and low priority matter that would most likely never be mentioned again.

8. Mr Rowland's instructions to Mr Bolelyy, on around 11 September 2017, were brief: he said that UAE banks had holdings in Qatari bonds and were looking at ways of hedging those investments. Mr Rowland asked Mr Bolelyy to do some research and put together a note. Mr Rowland emphasised that the project was a 'non-Bank' project and that he should not invest too much time or energy in it.

9. On 12 September 2017, Mr Bolelyy sent an email to himself with a number of bullet points under the heading "Qatar". Mr Rowland had nothing to do with that email or

the notes contained within it. Mr Bolelyy has stated that this email contained notes of a conversation he had with Mr Weller. Mr Weller has simply stated that he had "*no recollection*" of providing the information but that it was "*very unlikely*" that he did. The documentary evidence that does exist supports Mr Bolelyy's account.

10. Mr Rowland thinks it likely that he met Individual A on 13 September 2017 at the London Branch office. Mr Rowland does not recall attending this" meeting arranged by Mr Bolelyy which was occurring at the same time as his meeting with Individual A. The documentary evidence suggests that Mr Rowland was not one of the individuals invited to the meeting on 13 September 2017 and that he did not attend it. As he was not at this meeting Mr Rowland cannot comment on what was discussed. The recollection of another employee of the Firm that Mr Rowland was present at this meeting on 13 September 2017 should not be relied on and may not be impartial; the employee concerned had difficulty in recalling the role played by Mr Rowland at the meeting, and Mr Rowland's own account (and Mr Bolelyy's account) is consistent with the documentary evidence.

11. Mr Rowland does recall that, later that day, there was another gathering of employees after a senior individual announced his departure from the Firm. Towards the end of this gathering, Mr Weller mentioned something about assisting Mr Bolelyy with the document he had been working on for Mr Rowland, and Mr Weller was animated in this discussion.

12. Mr Rowland played no role in the drafting of the Presentation after this meeting nor in the creation of Mr Weller's SFNH Document. Mr Rowland did not have an opportunity to review the Presentation at the material time. Had he read it, he would not have permitted it to go any further. There is nothing which links the contents of Mr Weller's SFNH Document with anything that was requested by Mr Rowland.

13. Mr Rowland asked for a copy of Mr Bolelyy's draft "*Qatar presentation*" on 18 September 2017 because he thought that he might be meeting the senior representative of the Abu Dhabi sovereign wealth fund during his forthcoming trip to Abu Dhabi; there was therefore a chance, albeit remote, that the senior representative might mention his earlier request for some thoughts on how UAE banks might hedge their exposure to Qatar. Mr Rowland had not reviewed the draft document but would have done so before permitting it to be disseminated. He may

also have wished to discuss it with Individual A and David Rowland, hence his reason for forwarding the document to them. He forwarded the document to them immediately because he knew it was a draft that needed to be reviewed and he was sending it to the people who might wish to review it. The facts that Mr Rowland's emails had no covering explanation reflected the fact that he did not consider the Presentation to be particularly important.

14. Neither the Presentation nor its contents were remotely close to an acceptable standard for dissemination. It was not intended that it should be disseminated to representatives of the UAE and/or other states in the Middle East. Had Mr Rowland intended to disseminate the Presentation as a marketing tool, he would have asked for more than two copies. The Presentation was not handed to anyone at the Abu Dhabi sovereign wealth fund. It is outlandish to suggest that Mr Bolelyy, a junior employee, would deliver an unreviewed, highly sensitive document to an important business contact without any clearance whatsoever from his supervisor.

15. There is no evidence of any reaction to the Presentation from the Abu Dhabi sovereign wealth fund. Nor is there any evidence, or investigation into, how the Presentation was subsequently put into the public domain by journalists. The UAE Ambassador has stated that he did not receive the Presentation and it was never sent to him.

16. Individual A and David Rowland were not aware of the contents of the Presentation before it was sent to them on 18 September 2017. There is no evidence to support the allegation that they were. In addition, Mr Rowland was unaware of the contents of the Presentation at this time.

17. **On 27 August 2017, Mr Rowland referred to the forthcoming meeting on 30 August 2017 in an email to a colleague, stating : *"they have another potential opportunity they want me to look at also"* (see paragraph 4.7 of the Decision Notice). This email appears to relate to the request made at the meeting for advice with respect to the UAE's holdings of Qatari bonds. It is notable that Mr Rowland's use of the phrase *"another potential opportunity"* is consistent with Mr Bolelyy's subsequent choice of file name for the Presentation (namely Qatar *Opportunity*.ppt).**

18. **On Mr Rowland's own account, which the Authority does not accept as accurate, following his discussions with the senior representative of the Abu Dhabi sovereign wealth fund on 30 August 2017, he asked Mr Bolelyy to do some research and put together a note on hedging strategies for Qatari bonds, i.e. he asked him to undertake investment analysis. This would have involved a regulated activity and within Mr Bolelyy's job description as a "Senior Investment Analyst". Whether or not Mr Rowland told Mr Bolelyy at the time that it was not a Bank-related matter is not determinative. Employees' views (particularly those with very limited involvement in the matter) as to whether the Presentation was Bank Business or Rowland Family business, are of limited relevance. The assessment as to whether the Presentation was Bank Business or not is an objective one, taking into account all the circumstances and evidence.**

19. **On 12 September 2017 Mr Bolelyy sent himself an email with the "Qatar Opportunity file", notes and bullet points. The Authority considers that this first version of the Presentation reflects the intention behind its creation, namely, to outline potential strategies and actions that would negatively impact Qatar. In the Authority's view Mr Rowland must have been the source of the instructions in light of which Mr Bolelyy drafted the first version of the Presentation on 12 September 2017. The Authority considers it highly unlikely, and unrealistic, in the circumstances that Mr Weller would have taken it upon himself to persuade Mr Bolelyy to go far beyond what their boss (i.e. the former Chief Executive and son of the ultimate controller of the Firm) now says that he wanted, namely a "vanilla" hedging note, and instead produce a highly improper plan about an "*opportunity*" aimed at breaking the Qatari currency peg. The Authority has concluded that only Mr Rowland would have had the confidence (due to his position in the Rowland Family and seniority within the Firm) and the motivation (a desire to curry favour in particular in the UAE) to suggest such obvious impropriety.**

20. **The meeting on 13 September 2017 was convened by Mr Bolelyy on the direct instructions from Mr Rowland. The Authority has considered the evidence from the other employee of the Firm and Mr Weller, together with the evidence from Mr Bolelyy and Mr Rowland, as to what took place at this meeting. The other employee stated that Mr Rowland began the**

meeting asking how one might, hypothetically, devalue Qatar's currency. In the notes of his interview conducted on behalf of the Firm the other employee is recorded as stating, "*the meeting was clear about the plan 'how can we undermine the Qatar economy'*". Mr Weller's account was similar "*the question asked by Edmund was how could a George Soros/GBP type situation from the 1990s be applied to Qatar today*". The other employee did not get involved with the Presentation and the accounts of him and Mr Weller align reasonably closely with the two emails sent by Mr Bolelyy that day. The other employee admitted that he could not remember every specific detail. Admitting this does not, in itself, make his recollection unreliable. The Authority considers that he appears to be a credible and reasonably objective witness. Having considered all the relevant evidence, the Authority has concluded that Mr Rowland was present at the meeting on 13 September 2017.

21. **Mr Weller has stated that he only discussed ideas (which led to the preparation of the SFNH Document on 14 September 2017) as to how undermine the Qatari currency peg with Mr Bolelyy after the meeting on 13 September 2017. The Authority considers that Mr Weller's account of the reason for preparation of the SFNH Document is a credible explanation. The SFNH Document was not the sole source of the Presentation. Following receipt of the SFNH Document, on 14 September 2017, Mr Bolelyy created drafts of the Presentation which contained additional material that was not included in the SFNH Document. For example, the SFNH Document makes no mention of the use of a "*protected cell company*", yet that concept appears in the Presentation.**

22. **The contemporaneous documentary evidence shows that Mr Rowland continued to play a role in the creation of the Presentation after the meeting on 13 September 2017. This is demonstrated by two emails sent by Mr Bolelyy to Mr Rowland soon after the meeting on 13 September 2017 and on the following day, the latter stating: "*Attached is a work in progress based on fragments of information exchanged so far. As discussed yesterday, it will be useful for all of us to sit down and nail down the basic skeleton. When can you do today?*" This indicates that Mr Bolelyy was requesting further input from Mr Rowland. Mr Bolelyy followed this with an email to Mr Rowland on 18 September 2017 attaching a copy of the**

Presentation and stating: "*Sure. Attached is the latest and same version I gave you this afternoon for review*". These emails contradict Mr Rowland's assertion that he did not show and real interest in the Presentation or its contents, and instead show his continuing oversight of the work he had tasked Mr Bolelyy with.

23. **Mr Rowland asked Mr Bolelyy to print out the latest version of the Presentation on 18 September 2017 before his upcoming trip to Abu Dhabi and shortly afterwards, on the same day, Mr Rowland requested it to be emailed to him. He then forwarded the Presentation, without a covering message, to Individual A and David Rowland. The Authority considers that, given the absence of any covering message, it is likely that Individual A and David Rowland already had some awareness of what the Presentation was about.**

24. **The Authority considers that Mr Rowland did authorise Mr Bolelyy to give the Presentation to the Abu Dhabi sovereign wealth fund for the reasons set out in the section below: *Was the Presentation given?***

Press reports and the Firm's response

25. On 12 October 2017, the Indian Article was published. Mr Rowland did not read the article at the time of its publication. His reaction to the publication (responding to Mr Weller's email by saying "*made me laugh*") is consistent with him (i) not drawing a connection between the Indian Article and the hedging document that he had asked Mr Bolelyy to produce and (ii) not knowing about the content of the Presentation. If Mr Rowland had known of the content, he would not have found the article humorous but instead considered it to be very serious.

26. On 13 October 2017, Mr Rowland received a telephone call from a journalist from an online media outlet called 'The Intercept'. Mr Rowland recalled that at the time he instinctively connected the request to discuss Qatar with the work he was doing in the Middle East, in particular with respect to the Financial Institution rather than the Presentation. After the journalist contacted the Firm's US lawyers, Mr Rowland considered it to be appropriate for there to be a formal response and a form of words was agreed, reflecting the fact that Mr Rowland now thought that the

journalist might be referring to the hedging document that he had asked Mr Bolelyy to produce. The proposed press statement[1] made it clear that the Firm did not deal in the type of instruments that would commonly be used for hedging purposes.

27. Mr Rowland had a telephone call with David Rowland on 13 October 2017. During the call, neither Mr Rowland nor David Rowland said anything about the actual content of the Presentation. This is consistent with neither of them knowing about it. David Rowland's primary concern was that his mobile phone might have been hacked whilst he was in Abu Dhabi. When Mr Rowland's father referred to a presentation that he thought the journalists might have had, he was not referring to the Presentation but to a different presentation he had been sent regarding the Financial Institution.

28. Mr Rowland had a further telephone call with David Rowland on 19 October 2017. At this time, Mr Rowland had still not read the Presentation. This is clear, as Mr Rowland tells David Rowland that, if he were to look at the Presentation, he would see that all it contains is information about hedging strategies to protect an investment. Mr Rowland would not, and did not, lie to his father about the content of the Presentation.

29. Mr Rowland was shocked when he finally read the Presentation on 9 November 2017 (after the Intercept published its article). It was not what Mr Rowland had asked Mr Bolelyy to produce.

30. The Authority considers that Mr Rowland was aware of the contents of the Presentation at the time of the publication of the Indian Article for, inter alia, the reasons set out in the above section: *The Presentation* and in the below section: *Was the Presentation given?* This second section details the Authority's conclusions arising from the telephone calls between Mr Rowland and David Rowland.

31. The Authority also refers to the contact which Mr Rowland, and the Firm, had with the Firm's US lawyers following the contact from the Intercept journalist. Mr Rowland's assertion that he assumed the telephone call with

[1] See paragraph 4.40 of the Decision Notice

the Intercept journalist related to the work he was doing in relation to the Financial Institution is not reflected in the subsequent press statement[2], which makes no reference to the Financial Institution or the sort of work it would have done.

32. **The Authority also notes the list of questions that the Intercept journalist had prepared, which had been forwarded to Mr Rowland on 18 October 2017, and considers it highly unlikely that Mr Rowland could have believed that the Presentation was simply a "vanilla" hedging document.**

33. **In addition, during a telephone call Mr Rowland subsequently had with another senior employee of the Firm, shortly after the publication of the Intercept Article on 9 November, the senior employee said: *"I was [good] before I read that thing on the Intercept… So I think we can agree that there is nothing good in this article".* Mr Rowland replied *"No, nothing good, nothing bad. I would just say that it's not".* The senior employee then stated: *"No, it's very bad, Edmund, it is very bad. It's – it's very bad".* The Authority infers from this exchange that Mr Rowland was trying, even at this late stage, to persuade the senior employee that there was nothing wrong about the contents of the Presentation.**

34. **The Authority also considers as relevant the following undated notes (which had been deleted but were subsequently recovered) made on Mr Rowland's telephone:**

"Reframe the agenda Q attacks pattern over last 6-9 months Macro note hedging No named security No reply back Hubris, embellished Work was not reviewed Took responsibility resigned with immediate effect No trades have ever been done, attempted to be done, have accounts that can even trade them or have attempted to open accounts that can trade Instruments we do not know what they our, in an entity that does not exist, with asserts we Do not they have, by entities we do not know. Regulated banks No meetings, discussion, face to face or electronic has ever occurred on the matter, and it was never mentioned again We where

[2] ibid

never to be involved as bank, company or individuals in any way* [the Abu Dhabi sovereign wealth fund] *is a large swf had just committed 75 million to new bank short macro hedging note". [sic]

These notes demonstrate Mr Rowland's thinking (and how he sought to "*reframe the agenda*") over the Relevant Period.

Regulated activity

35. The Presentation was not regulated advice, pursuant to section 22 of the Act. By section 22 of the Act, a "regulated activity" is, in summary: (1) a specified activity, (2) relating to an investment of a specified kind, and which is (3) carried on by way of business. Activities and investments are specified in the RAO. As the Presentation was not a regulated activity, or an ancillary activity to a regulated activity, as a matter of law, the Firm cannot be held liable for a breach of Principle 1 (Integrity) or, indeed, any of the Principles for Businesses part of the Authority's Handbook of Rules and Guidance.

36. During the Relevant Period, under Article 53 (Advising on investments) of the RAO, advising a person was a specified activity, if the advice was: (a) given to a person in his capacity as an investor or potential investor, or in his capacity as agent for an investor or potential investor; and (b) advice on the merits of the investor or potential investor buying, selling, subscribing for or underwriting a particular investment which is a security or a contractually based investment.

37. The requirements of Article 53 are therefore that: (i) advice must be given; (ii) the advice must go to a person in their capacity as an investor or potential investor (or an agent of the same); (iii) the advice must be on the merits; and (iv) the advice must relate to a particular investment.

38. The Presentation was not given to anyone; and it was not intended to be given to an investor or potential investor (or agent thereof).

39. Neither the Abu Dhabi sovereign wealth fund nor its senior representative were investors (or potential investors) for these purposes and there was nothing to suggest that the senior representative was acting as an agent for an investor or potential investor. Mr Rowland stated that the UAE banking sector had exposure to

Qatari bonds, not the Abu Dhabi sovereign wealth fund or its senior representative. The banks that the senior representative had in mind which might be interested in receiving the Presentation were unnamed and unknown to Mr Rowland.

40. The Perimeter Guidance Manual ("PERG") 8.29 provided guidance as to what constituted investment advice. PERG 8.29.1 provided that advice "*must relate to the buying or selling of an investment – in other words, the pros or cons of doing so*". The distinction between giving information and advising is between providing "*information for the purpose of enabling someone else to decide upon a course of action and [advising] someone as to what course of action he should take*"[3]. Advice "requires an element of opinion on the part of the adviser. In effect, it is a recommendation as to a course of action"[4]. Conveying mere information is not regulated advice. The Presentation did not contain any recommendations or encouragement to buy or sell investments, was not presented as being suitable for any particular person and was not based on a consideration of the circumstances of anyone in particular. Accordingly, it cannot be regulated advice within the specific meaning of Article 53 of the RAO and PERG.

41. Regulated advice must relate to a "*particular*", or a specific, investment. The Authority's guidance at PERG 2.7.15G provides that: "*Giving a person generic advice about specified investments (for example, invest in Japan rather than Europe) is not a regulated activity….".* The Presentation did not contain advice in relation to a "*particular investment*".

42. As to the application of the Principles for Businesses, in the event that the Presentation is not considered to be regulated advice, the preparation of the Presentation, or the formulation of the Strategy contained therein, cannot have been carried on "*in connection with a regulated activity*" [PRIN 3.2.1AR(3)[5]] (e.g. arranging deals in investments or advising on investments). There was no arranging. The Presentation contained a vague and general commercial proposition that was never executed. Accordingly, the Firm's activities could not be said to be ancillary activities in relation to designated investment business.

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[3] Lord Hoffman in South Australia Asset Corp v York Montague [1996] 3 All E.R. 365 at 372j,

[4] PERG 5.8.8 G

[5] PRIN 3.2.1AR: PRIN applies with respect to the carrying on of:
(1) regulated activities; (2) activities that constitute dealing in investments as principal, disregarding the exclusion in article 15 of the Regulated Activities Order (Absence of holding out etc); and (3) ancillary activities in relation to designated investment business, home finance activity, credit-related regulated activity, insurance mediation activity and accepting deposits.

The Application of COCON

43. COCON 1.1.6R provides that for a person who is an approved person, as Mr Rowland was during the Relevant Period, COCON applies to his conduct in relation to his performance of functions relating to the carrying on of activities (whether or not regulated activities) by the Firm. The Authority considers that the creation of the Presentation was an activity carried out by the Firm (see the section Bank Business below).

44. COCON applies to the conduct of Mr Rowland, whether or not the Presentation was regulated (as the Authority has concluded it was), or unregulated, activity. Accordingly, Mr Rowland's arguments with respect to whether the Presentation was regulated advice do not affect the application of COCON to the performance of his functions relating to the carrying on of activities in question by the Firm, since this would be the case, even if the activities were not regulated. Notwithstanding this, since Mr Rowland has argued at length that the Presentation was not regulated advice, the Authority sets out below the reasons why it does not agree with that argument.

Was the Presentation given?

45. As requested by Mr Rowland, Mr Bolelyy printed off two copies of the Presentation to take on their forthcoming trip to Abu Dhabi, so that it could be discussed with a representative of an Abu Dhabi sovereign wealth fund. Mr Bolelyy signed a statement, dated 15 November 2017, saying that during the visit he had handed one single copy of the Presentation to a (named) senior employee of an Abu Dhabi sovereign wealth fund. On 13 November 2017 Mr Rowland confirmed that Mr Bolelyy had said to him on 21 September 2017, that he had provided the Presentation to the senior employee. On 25 November 2017, Mr Rowland signed a statement saying that he was made aware that Mr Bolelyy may have given the Presentation to a junior employee at the same Abu Dhabi sovereign wealth fund.

46. Mr Bolelyy subsequently withdrew his statement that he had passed the copy of the Presentation to the (named) senior employee. He then added

he may have given the Presentation to a junior employee. Mr Rowland subsequently withdrew his statement.

47. **Mr Rowland purported to explain why he did so. He said that he had had no knowledge of Mr Bolelyy sharing the Presentation and he had assumed that the Firm's internal investigation had already determined that he had. However, when he later learnt that the senior employee of the Abu Dhabi sovereign wealth fund had been in Brazil at the time of the trip to Abu Dhabi, he considered he had been mistaken.**

48. **The Authority refers to the telephone call between Mr Rowland and David Rowland on 12 October 2017. In this call, David Rowland asked Mr Rowland how he thought the "*thing in the Indian paper got there*". Mr Rowland replied "*probably, I assume – probably a leak from their office I would imagine*". Mr Rowland then said he was aware that the content of the Presentation had been discussed with "*their*" office. The Authority infers that "*their office*" refers to the office of the Abu Dhabi sovereign wealth fund, which had been provided with a copy of the Presentation during the visit. Mr Rowland appeared to see publication of the Firm's involvement as "*a badge of honour*" with respect to the Abu Dhabi sovereign wealth fund.**

49. **Mr Rowland has stated that the Presentation (albeit in a different form) was requested by the senior representative of the Abu Dhabi sovereign wealth fund. Two copies of the Presentation were taken on the visit to Abu Dhabi, so that it could be discussed with them. The Authority considers that it is likely that Mr Bolelyy did in fact provide a copy of the Presentation to a representative of the Abu Dhabi sovereign wealth fund (albeit not the senior representative who was in Brazil at the time) and that Mr Rowland knew that he had done so.**

Was the Presentation given to the person in his capacity as an investor or potential investor?

50. **PERG 8.27.1G provides that advice must be given to or directed at someone who either holds investments or is a prospective investor (or their agent). PERG 8.27.5G provides that advice will still be covered by**

Article 53(1), even though it may not be given to or directed at a particular investor (for example, advice given in a periodical publication or on a website). The expression '*investor*' has a broad meaning and will include institutional or professional investors. There was, therefore, no requirement that the person to whom the advice was given be an existing client, or investor, or that there be an intention that the relationship would continue after the advice was given. In addition, advice can still be regulated, if it was not specifically tailored for the person to whom it was given.

51. **The Authority considers that the Presentation was given to an Abu Dhabi sovereign wealth fund owned by the government of Abu Dhabi (one of the seven Emirates of the UAE). The UAE held Qatari bonds. The Strategy was aimed at assisting the UAE, amongst others, and it advised those investors to transfer their existing holdings of Qatari bonds into a "*protected cell company*" to "*preserve integrity*", before manipulative trading intended to destabilise the Qatari economy took place, which trading was to include the purchase of CDS and the sale and purchase of Qatari bonds. The Abu Dhabi sovereign wealth fund was therefore an investor, a potential investor and/or an agent of the UAE, which was itself an investor or potential investor for the purpose of Article 53 of the RAO.**

Did the Presentation include advice on the merits?

52. **Article 53(b) requires the advice to be "on the merits" rather than mere information. There are various elements to the difference between advice and information. Advice must relate to the buying, holding or selling of an investment, in other words, the pros or cons of doing so (PERG 8.29). PERG 8.28 sets out what advice means, namely, requiring an element of opinion on the part of the adviser, in effect, being a recommendation as to a course of action. Regulated advice includes any communication with the customer which, in the particular context in which it is given, goes beyond the mere provision of information and is objectively likely to influence the customer's decision whether or not to buy or sell. Any significant element of evaluation, value judgment or persuasion is likely to mean that advice is being given.**

53. **The fact that advice was not implemented (or even could not be implemented) does not stop it from being advice. So, for example, an incompetent failure to implement advice does not turn that advice into mere information.**

54. **The Authority has considered the contents of the Presentation, namely, Establish the Execution Strategy (Stage 1); Gear Up to Control the Yield Curve (Stage 2); and Public Relations Machine and Position Increase (Stage 3).**

55. **Stage 1 advised the recipient of the Presentation on the steps needed to preserve the integrity of their existing Qatari bond holdings and arranging an in-situ transfer into a protected cell company. This involved, inter alia, the creation of a sizeable, strong and standalone entity which could be viewed as a smaller counterpart to central bank reserve holdings, with the Qatari bond holdings serving as collateral. Stage 1 also advised the recipient of the Presentation to assess global market conditions for the Qatari Riyal and CDS to establish the execution strategy. This involved, inter alia, determining available liquidity, supply and pricing. It also involved identifying appropriate instruments such as currency forwards, currency options and bond CDS.**

56. **Stage 2 advised the recipient of the Presentation as to the reasons behind the recommendation to purchase medium and long-term Qatari paper and CDS. It was indicated in the Presentation that this would, inter alia, allow the participant to control the yield curve (and thus bond prices) and should favourably affect CDS pricing at a later stage.**

57. **Stage 3 advised the recipient of the Presentation to utilise a public relations message and to increase positions, by simultaneously hitting all second-tier bank CDS lines and by increasing existing positions with larger banks and buying additional CDS, leading to falling bond prices, rising rates and the escalation of CDS premia.**

58. **In light of the above, the Authority considers that the Presentation contains a significant element of evaluation, value judgement and**

persuasion. It goes beyond the mere provision of information. Accordingly, it was "*advice on the merits*".

Did the advice relate to a "particular" or a specific investment?

59. PERG 8.26 provides examples of generic advice and particular investments. The current PERG 8.28.5G states that: "*A key question is whether an impartial observer, having due regard to the regulatory regime and guidance, context, timing and what passed between the parties, would conclude that what the adviser says could reasonably have been understood by the customer as being advice*"[6].

60. The advice in the Presentation relates to: (i) transferring the UAE's holding of Qatari bonds into a protected cell company and using the bonds as collateral ("*the Protected Cell Company*"); (ii) buying medium and long-term Qatari paper (i.e. bonds); (iii) wash-trading with an affiliated party; (iv) buying CDS on Qatar "*to move the price*" of the bonds; and (v) buying additional CDS to drive down bond prices/increase CDS premia, all with the ultimate aim of causing Qatar to deploy substantial resources to support the value of its currency ("*the Underlying Investment*").

61. The Protected Cell Company was clearly intended to be a preliminary arrangement intended to support the Strategy, which involved the transfer of existing bond holdings. Accordingly, it identifies the securities to be transferred (i.e. all the investor's existing holdings of Qatari paper). As such, the Authority considers it to have been advice in relation to a specific investment.

62. The advice regarding the Underlying Investment should be seen in context and in light of what passed between/was known by the parties, namely that: (i) the Firm and the recipient of the advice were aware that the UAE was holding significant amounts of Qatari paper (i.e. bonds); (ii) the purpose of the Strategy was to manipulate the market price of the Qatari

[6] PERG 8.28.5G came into force on 23.02.2018 after the end of the Relevant Period, but notwithstanding this, context must still have been relevant.

Riyal for the benefit of the UAE and the detriment of Qatar; and (iii) the recipient of the advice was aware of the quantity of the Qatari paper held.

63. **The proposal to enter into CDS was to be underpinned by the Qatari paper, and the context makes it clear that the transactions were to be based on the bond holdings. Accordingly, the investment referred to in the Presentation would have been clear to both parties, and the Authority considers that the advice about the Underlying Investment was advice in relation to a specific investment.**

64. **The Authority further considers that both parts of the advice as set out in the Presentation, namely the advice regarding the Protected Cell Company and the Underlying Investment, are sufficiently specific or "particular" for the purpose of Article 53(b)(i) of the RAO.**

Application of the Principles for Businesses to ancillary activities

65. **Mr Rowland has raised the issue as to whether, if the Authority concluded that all or significant parts of the Presentation were unregulated, the Principles for Businesses would nonetheless apply to the unregulated part(s).**

66. **Since the Authority has found that the entirety of the Presentation was regulated advice, it is not necessary for it to determine this issue. However, in light of Mr Rowland's submissions the Authority makes the following observations.**

67. **If unregulated activities are "*ancillary activities in relation to designated investment business*", this would constitute an alternative basis upon which the Principles for Businesses could apply to a Firm (PRIN 3.2.1AR(3)). "*Ancillary activity*" is defined in the Handbook Glossary as: "*an activity which is not a regulated activity but which is: (a) carried on in connection with a regulated activity; or (b) held out as being for the purposes of a regulated activity*". This scenario may have occurred if, for example, the Authority had found that the advice regarding the Protected Cell Company was regulated advice and the advice regarding the Underlying Investment was not (or vice-versa).**

68. **Had this been the case, the Authority considers that there would have been a sufficient connection between the regulated business and the assumed ancillary (unregulated) activity, and that the "*ancillary*" activity had a subsidiary, supporting function in relation to the regulated activity. The Authority notes that it would be difficult, if not impossible, to untangle the two connected parts of the overall Strategy and the regulated activity cannot, on the facts, be said to have been insignificant. Accordingly, the Authority considers that the unregulated activity would have met the criteria set out in PRIN 3.2.1AR(3), as it was carried on in connection with a regulated activity.**

Bank Business

69. Mr Bolelyy's Presentation was a non-Bank project and therefore Mr Rowland's actions in relation to it were not connected with the activities of the Firm. As a result, there can be no regulatory breach and the Authority does not have jurisdiction to impose a penalty on Mr Rowland. COCON 2.1.1R applies to a person's conduct only "*in relation to the performance [by the person] of functions relating to the carrying on of activities … by the firm on whose application approval was given to [the person]".*

70. The non-Bank nature of the Presentation is clear from, inter alia, the following:

- The Presentation was not produced on the Firm's materials; in fact, an early draft of the document appears to have been produced on the Financial Institution's materials.
- Mr Bolelyy was assisting Mr Rowland in relation to matters outside of the Firm, including in relation to the Financial Institution. It was in that capacity that Mr Bolelyy came to produce the Presentation.
- Mr Rowland was not the Chief Executive of the London Branch when he tasked Mr Bolelyy with preparing the document.
- The Presentation was produced following a request from the senior representative of the Abu Dhabi sovereign wealth fund with whom the Rowland Family were doing business through the Financial Institution joint venture.

- There is no evidence that Mr Rowland, or anyone else, attempted to use the Presentation to market the Firm.
- The Presentation was so absurd that it would have been a useless marketing tool and the Firm could never have been a vehicle for carrying out the plan in the Presentation.

71. **The Presentation was created in the Firm's London Office premises, using the Firm's IT systems, and was disseminated from Mr Rowland's Firm email account. Mr Bolelyy's email to self, dated 12 September 2017, was sent by him to and from his email address at the Firm. In the Authority's view, the clearly inappropriate nature of the Presentation makes it likely that Mr Bolelyy would not have filed it in the usual place within the Firm's IT systems, where it would have been accessible to other employees of the Firm not involved in assisting with the preparation of the Presentation.**

72. **Mr Bolelyy was not a "*personal assistant*" for the purpose of COCON 1.1.2R(6)(r)[7]. Working for Mr Rowland on personal, or non-Firm matters, did not preclude him from working for the Firm on Bank Business. Mr Bolelyy's salary was exclusively paid by the Firm; he did not receive an income from Mr Rowland, or the Rowland Family, directly.**

73. **Mr Rowland was an SMF 21 (EEA Branch Manager) of the Firm during the Relevant Period and thereafter, up to 15 December 2017. Mr Rowland remained a Board Member of the Firm and continued to be influential in the London Branch. Mr Rowland was described, by another senior member of staff as still being the "*Boss*" even after he formally stood down as the Chief Executive. Although he may not have spent all his time working on the Firm's matters during the Relevant Period (for example when he was working on the Financial Institution project), this did not preclude him from spending some of his time working on matters relating to the Firm.**

74. **In the same way, meetings with representatives of an Abu Dhabi sovereign wealth fund, to discuss, inter alia, the Financial Institution project, did not preclude discussions occurring on other matters, including matters which**

[7] COCON 1.1 Application: COCON 1.1.2R(6): Persons to whom COCON applies

were Bank Business. The Financial Institution was not yet set up and operating during the Relevant Period; at that point it was still just a project, rather than being an existing entity capable of providing the regulated services which the Firm was in the business of providing.

75. **Prior to the meeting on 30 August 2017 Mr Rowland had mentioned it to a colleague and stated: "*I am now seeing [the senior representative] in London on Wednesday so will finalise all [the Financial Institution] issues with him then, they have another potential opportunity they want me to look at also*". The Authority notes that the Presentation was entitled "the Qatar Opportunity" and infers that the other "*potential opportunity*" referred to by the senior representative concerned Qatar. Discussions at the August Meeting regarding the Financial Institution did not preclude discussions on other matters which could be taken forward as Bank Business. Such matters include the request for advice which led to the creation of the Presentation.**

76. **Working on the proposed establishment of the Financial Institution did not preclude Mr Rowland, or indeed anyone else, from separately working on Bank Business.**

77. **The Presentation refers to an execution strategy and implies that further advice would be required. Even if the execution of the entire Strategy was beyond the resources and competence of the Firm, it could still have been involved, for example in sourcing the further advice required. The Authority also notes that Mr Rowland had indicated, in the meeting on 13 September 2017, that the economic interest for the Rowland Family would come from potentially being able to charge a small fee on the assets put into the holding vehicle which appears to be the protected cell company referred to in the Presentation.**

78. **The Presentation was not a conventional marketing document but one which was designed to be a clear indicator that the Firm (and therefore the Rowland Family) were supportive of the UAE in its economic conflict with Qatar. During telephone calls between Mr Rowland and David Rowland, Mr Rowland referred to the Presentation as a "*badge of honour***

***when we go and see them*" [i.e. the Abu Dhabi sovereign wealth fund]; and David Rowland said that "*we can capitalise on this*".**

Integrity and Financial Penalty

79. Mr Rowland did not act with a lack of integrity. The Presentation was very different to the document Mr Bolelyy had been asked to produce by Mr Rowland. Mr Bolelyy, a junior individual, was instructed to produce a document about how UAE banks could hedge their exposure to Qatar but he ended up producing a very different document, in part assisted (or encouraged) by others, including Mr Weller, who were seeking to impress Mr Rowland and who may have sought to 'read between the lines' as to the true nature of the request (or who may simply have found the whole thing humorous). Mr Rowland was not responsible.

80. As a matter of jurisdiction, the FCA cannot impose a financial penalty on Mr Rowland in relation to his conduct as regards the Presentation because it was a non-Bank project. Mr Rowland did not act with a lack of integrity and therefore he did not breach COCON 2.1.1R. It is therefore inappropriate to impose any financial penalty.

81. The proposed penalty is grossly disproportionate. This is particularly so given the penalty proposed in relation to Mr Bolelyy, who was the creator of the Presentation, and the penalty proposed in relation to Mr Weller, who created the SFNH Document and therefore was key to a large part of the contents of the Presentation. Mr Weller's culpability is, at a minimum, on a par with Mr Rowland's culpability, if not greater. The Warning Notice purports to apply the five-step penalty process, but at Step 4 of that process a very substantial uplift is applied. There is no basis for requiring such a disproportionate uplift at Step 4 in relation to Mr Rowland, particularly given the limited role he played at the London Branch (his work at the time being focused on the Financial Institution) and his low salary. In addition, the seriousness of Mr Rowland's alleged misconduct is not 'Level 5', particularly with Mr Weller's misconduct being proposed at Level 4. The justification for a very substantial Step 4 increase to reflect Mr Rowland's misconduct in "*creating and disseminating"* the Presentation is baseless as Mr Rowland did not "*disseminate"* the document nor did he "*create"* it (as this was drafted by Mr Bolelyy with significant assistance from Mr Weller and the non-Firm employee).

82. **The Authority considers that the Presentation was Bank Business and contained regulated advice and that Mr Rowland acted without integrity and breached COCON 2.1.1R. Accordingly, it is permitted to impose a financial penalty on Mr Rowland.**

83. **The Authority considers that Mr Rowland was the instigator and the driver behind the creation and the dissemination of the Presentation. He took steps to cover up his conduct throughout the Relevant Period. His level of personal culpability was more serious than the culpability of Mr Weller and Mr Bolelyy and justifies the most serious Level 5 finding.**

84. **The Authority considers a significant deterrence uplift is justified at Step 4. Mr Rowland's relevant income in the 12 months preceding the last day of his breach (i.e. 13 November 2017) was £44,000. This relatively modest figure covered Mr Rowland's time being the Chief Executive of the London Branch for much of this 12 month period. The Step 2 figure, with a finding of the most serious Level 5 misconduct, becomes £17,600. The Authority considers that this would be insufficient to deter Mr Rowland, or others, from committing further or similar breaches.**

85. **The Authority considers that the financial penalty at Step 4 should be increased by a multiple of 20. The financial penalty is therefore £352,000.**

David Rowland's Representations

86. The 30 August 2017 meeting was organised by Individual A, because the senior representative of an Abu Dhabi sovereign wealth fund was due to be in London on other business. It was an informal, unstructured meeting, with no agenda. David Rowland attended the meeting to advance his interest in the Financial Institution, which was a proposed partnership between the Abu Dhabi sovereign wealth fund and David Rowland. This project was discussed in addition to personal greetings and probably matters related to UK politics. The meeting lasted at most 20 minutes, the Firm was not mentioned, and no mention was made of anything which could have related to what became the contents of the Presentation. As the meeting concluded, David Rowland went downstairs to use the cloakroom, leaving Mr Rowland talking with the senior representative. Mr Rowland subsequently briefly

mentioned to David Rowland something about the Abu Dhabi sovereign wealth fund *"hedging their exposure".*

87. David Rowland's attendance at the August Meeting had no significance and was not relevant to the subsequent creation of the Presentation, nor did he have any "behind the scenes" role in its creation. His involvement with the UAE is wholly unrelated to the Firm. David Rowland does not think he has ever discussed the Firm with the senior representative of the Abu Dhabi sovereign wealth fund or with the Ruler of the UAE, whom David Rowland regards as a very close personal friend.

88. David Rowland has never attended any Board Meetings of the Firm or any management meetings, nor has he been involved, or interfered, in any manner in the management of the Firm. David Rowland's attendance at the August Meeting does not indicate that the Presentation was Bank Business, or that Bank Business was discussed. David Rowland may have been Honorary President of the Firm, but it meant nothing and gave him no authority in the Firm, it was a fiction. The title was merely there to demonstrate his support for, and underwriting of, the Firm and to give confidence to depositors.

89. David Rowland went to Abu Dhabi with Mr Rowland in late September 2017. He did not discuss, read or look at the Presentation with Mr Rowland or anyone else during this visit. It was inconceivable that Mr Rowland would have not mentioned the Presentation to David Rowland, had he intended to hand over the Presentation to promote the interests of the Rowland Family. Bank Business had no relevance to the trip and the Firm has, and had, no relationship with the UAE.

90. The Presentation was not "disseminated". The term dissemination is only used to describe an act of distributing widely; this did not happen, as it was only sent to David Rowland and Individual A, and there was no intention by either David Rowland or Individual A to disseminate the Presentation. David Rowland was not aware at the time he received the Presentation that he had received it by email and did not open, read, print or forward it or give a copy to anyone else. The Presentation was deleted from David Rowland's computer by the automatic seven-day deletion policy on his email system. The UAE Ambassador confirmed to David Rowland, at the Abu Dhabi Grand Prix towards the end of November 2017, that he had never received a copy. Accordingly, there was no meaningful "dissemination", and as this term is pejorative, it should not be used.

91. David Rowland was not aware of the Presentation, or its contents, until The Intercept made contact. The telephone calls between David Rowland and Mr Rowland on 12, 13 and 19 October 2017 do not indicate that David Rowland was aware of the contents of the Presentation. Throughout these telephone calls David Rowland and Mr Rowland were concerned about their communications being hacked by agents of Qatar. The Presentation was not discussed; David Rowland's concerns related to a document regarding the Financial Institution and whether his phone had been hacked. They therefore talk about what he and Mr Rowland should do with their phones and their email addresses. The telephone calls were unguarded conversations between father and son and do not show any attempt at a cover-up.

92. David Rowland has no idea what the references to "*their office*" refers to but speculates that it could be Qatar or the office of Individual A who had also been hacked by Qatar. The reference in the telephone calls to "*badge of honour*" is nothing to do with the Presentation, nor to an economic warfare strategy. It concerned the bad publicity resulting from being attacked by Qatar, due to David Rowland's friendship with and connection to the UAE. The Presentation could not be used as a badge of honour; it was nonsense and a hugely embarrassing document.

93. The Authority has not asserted that David Rowland was present during the conversation between Mr Rowland and the senior representative of the Abu Dhabi sovereign wealth fund, when the request for advice is said to have occurred. Discussions at the August Meeting regarding the Financial Institution did not preclude discussions on other matters which could be taken forward as Bank Business. Such matters include the Presentation. The Authority has not asserted that David Rowland had a "behind the scenes" role in the creation of the Presentation.

94. Mr Rowland forwarded a copy of the Presentation to Individual A and David Rowland using their email addresses outside the Firm. The Authority has not asserted that David Rowland forwarded the Presentation. Having taken into account all the relevant evidence, including that of Mr Bolelyy and Mr Rowland, and the contents of the telephone calls on 12, 13 and 19 October 2017 between David Rowland and Mr Rowland, the Authority has concluded that Mr Bolelyy did provide a copy of the Presentation to a

representative of the Abu Dhabi sovereign wealth fund during the trip to Abu Dhabi. Accordingly, the Authority considers that it is appropriate to state that the Presentation was "disseminated".

95. **The Authority refers to the fact that between April 2014 and June 2018 (which includes the Relevant Period) the Firm's website referred to David Rowland as its Honorary President and that, during the telephone call on 19 October 2017, David Rowland stated to Mr Rowland "*don't let's put anything on the Bank emails…and you can put that Vladimir [Bolelyy], make him have one on, with Liwathon…and as soon as we can we take him off the Bank's payroll".* The Authority infers that, in practice, David Rowland had a level of influence and management within the Firm.**

96. **In the telephone call between David Rowland and Mr Rowland on 12 October 2017, David Rowland asked Mr Rowland how he thought the "*thing in the Indian paper got there*". Mr Rowland replied "*probably, I assume – probably a leak from their office I would imagine*". Mr Rowland then said he was aware that the content of the Presentation had been discussed with "*their*" office. The Authority infers that "*their office*" refers to the office of the Abu Dhabi sovereign wealth fund, which had been provided with a copy of the Presentation during the visit. Mr Rowland also stated to David Rowland "*Never been talked to anyone else*". The Authority infers that Mr Rowland was saying that the Presentation had not been discussed with anyone other than the Abu Dhabi sovereign wealth fund. Mr Rowland appeared to regard publication of the Firm's involvement as "*a badge of honour when we go and see them next time*", and David Rowland stated that "*you can, we can capitalise on this*" [with respect to the Abu Dhabi sovereign wealth fund]. The Authority infers that at the time of the telephone calls David Rowland is likely to have been aware that the Presentation had been provided to the Abu Dhabi sovereign wealth fund.**