FINANCIAL CONDUCT AUTHORITY

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FINAL NOTICE

To: **Denis Lee Morgan**

Individual Reference Number: **DLM00017**

To: **Pembrokeshire Mortgage Centre Limited (in liquidation)**
(as an interested party)

Firm Reference Number: **479220**

Date: **26 June 2023**

1. ACTION

1.1. For the reasons given in this notice, the Authority hereby:

(1) makes an order, pursuant to section 56 of the Act, prohibiting Mr Morgan from performing:

(a) any Senior Management Function in relation to any regulated activities carried on by an authorised person, exempt person or exempt professional firm;

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

(2) withdraws, pursuant to section 63 of the Act, the approvals granted to Mr Morgan by the Authority under section 59 of the Act to perform the SMF3 (Executive Director) and SMF16 (Compliance Oversight) Senior Management Functions at Pembrokeshire Mortgage Centre Limited ("PMC"), pursuant to section 63 of the Act.

1.2. Mr Morgan agreed to resolve the matter.

2. SUMMARY OF REASONS

Overview

2.1. The Authority takes this action against Mr Morgan for his lack of competence and capability in respect of his oversight of PMC's Pension Transfer advice process and his failure to take reasonable steps to ensure compliance with the relevant requirements and standards of the regulatory system between 8 June 2015 and 7 December 2017 (the Relevant Period).

2.2. The Authority also takes this action against Mr Morgan in respect of the unsuitable Pension Transfer advice that he either provided or reviewed and checked as a Pension Transfer Specialist, to customers to transfer out of their occupational Defined Benefit Pension Scheme into alternative pension arrangements, during the Relevant Period. Those customers included members of the British Steel Pension Scheme.

2.3. The Authority considers that Mr Morgan's failures demonstrate a lack of competence and capability during the Relevant Period which is so serious in manner and degree that he lacks fitness and propriety and accordingly should be prohibited from performing any Senior Management Function in relation to any regulated activities and any function in relation to the regulated activity of advising on Pension Transfers and Pension Opt-outs.

2.4. During the Relevant Period Mr Morgan was a qualified Pension Transfer Specialist ("PTS"), CF1 (Director) and CF30 (Customer) advisor at PMC. From 5 October 2016 he also held the CF10 (Compliance Oversight) function. A PTS is an individual who has passed the required examinations, as specified in the Authority's Training and Competence Sourcebook, and is employed by a firm to give advice, or to provide a second-level review and check on advice to customers in respect of Pension Transfers.

2.5. Following the introduction of the Senior Managers and Certification Regime for all firms authorised by the Authority, the controlled functions Mr Morgan was approved to perform were replaced by senior manager functions. As a result, from 9 December 2019, Mr Morgan was approved to perform the SMF3 (Executive Director), SMF16 (Compliance Oversight) and MCD Mediation senior manager functions at PMC.

2.6. Aside from his role as a CF30 adviser, as a CF1, CF10 (from 5 October 2016) and qualified PTS, Mr Morgan was responsible for ensuring that PMC provided advice which complied with the relevant regulatory Rules and requirements relating to the suitability of Pension Transfer advice. He carried out second-level reviews and checks as a PTS, on advice provided by other advisers on customer files. These second-level checks are required by the Authority's Rules and are an important protection mechanism and safeguard to mitigate against the risk of unsuitable Pension Transfer advice being provided to customers.

2.7. The Authority expects Pension Transfer Specialists to understand the regulatory requirements of the role, which include checking the entirety and completeness of the Personal Recommendation to the client; ensuring and confirming that any Personal Recommendation is suitable for the client; and checking that they are in agreement with the advice given by the primary adviser.

2.8. The Authority reviewed a statistically representative sample of 20 of PMC's Pension Transfer advice files from the Relevant Period. Mr Morgan was the adviser in 19 of the files sampled and was the Pension Transfer Specialist who carried out the second-level review and sign-off of the advice in the remaining customer file. When providing advice as a CF30, the Authority would have expected Mr Morgan in his capacity as a PTS to have an added level of knowledge and expertise. For a significant proportion of these customers, their Defined Benefit Pension was their most valuable asset and many also had limited additional resources or other pension provision they could rely upon. The Authority found that a large proportion of files were not compliant with regulatory Rules and requirements relating to the suitability of Pension Transfer advice.

Defined Benefit Pensions

2.9. A Defined Benefit Pension, also known as a final salary pension, provides a guaranteed lifetime income that usually increases each year in order to protect against inflation. It may also continue to be paid to the partner of the recipient at a reduced rate when the recipient dies. A Defined Benefit Pension is particularly valuable because an employer sponsor carries the financial burden associated with offering a secure, guaranteed retirement income for life to members.

2.10. This is in contrast to a Defined Contribution Pension Scheme whereby employer and employee capital contributions are invested, so that a fund is built up which may be accessed after the age of 55. However, the investment and mortality risk are borne by the member. Defined Contribution Pension Schemes may be either occupational (work) or personal schemes.

Mr Morgan's lack of competence and capability

2.11. Mr Morgan failed to ensure that PMC organised and controlled its affairs responsibly and effectively, with adequate risk management systems, in respect of ensuring that PMC complied with the relevant Rules and requirements of the regulatory system when giving advice to its customers on whether to transfer out of their Defined Benefit Pension Scheme. His lack of competence and capability became particularly acute between August and November 2017, when PMC was advising an average of 65 customers per month. This represented a very substantial increase in the volume of PMC's Pension Transfer advice business. By contrast, PMC provided Pension Transfer advice to 46 customers across the whole of 2016. This increased demand was primarily driven by a large number of BSPS members seeking advice over a short period of time. Mr Morgan therefore incompetently oversaw PMC's Defined Benefit Pension advice process.

2.12. He also incompetently provided unsuitable Pension Transfer advice himself in his capacity as an adviser and as a PTS providing second-level review and checks on advice, against the best interests of customers. His incompetence resulted in customers' retirement funds being unnecessarily put at risk.

British Steel Pension Scheme

2.13. Mr Morgan's incompetent provision of unsuitable Pension Transfer advice disproportionately affected members of the British Steel Pension Scheme, who made up the majority of PMC's Pension Transfer advice customers during the Relevant Period. Many of these individuals were in a vulnerable position due to the uncertainty surrounding the future of the British Steel Pension Scheme. It was therefore critical that they could depend on Mr Morgan to provide them with suitable advice that was clear, fair and not misleading. It was also crucial that the advice was in their best interests. Unfortunately, many of the British Steel customers did not receive the suitable advice they needed from Mr Morgan to be able to make a sufficiently informed decision about their Pension Transfer.

2.14. The Authority has carried out significant work in response to the harm caused to members of the British Steel Pension Scheme by authorised firms providing unsuitable Pension Transfer advice. The Authority has taken both intervention action in the form of requirements to vary permissions to stop ongoing harm at relevant firms and initiated enforcement investigations against culpable firms and individuals, of which the investigation into Mr Morgan is one.

Consumer harm

2.15. During the Relevant Period, PMC advised 420 customers on whether to transfer out of their Defined Benefit Pension Scheme into an alternative pension arrangement. Mr Morgan was either the primary adviser or the PTS on all of these files. Notwithstanding the Authority's guidance, which created, as a starting point, a presumption of unsuitability in respect of advising a client to transfer out of their Defined Benefit Pension Scheme, 403 of these customers (approximately 96%) were advised to transfer out of their DBPS. These customers were either advised by Mr Morgan, or the advice was second-level reviewed and checked by Mr Morgan in his capacity as PTS. The remaining 17 customers (4%) proceeded to transfer in any event, as insistent customers. 268 of the 420 customers, or 64%, were members of the British Steel Pension Scheme.

2.16. The total value of all Pension Transfers completed during the Relevant Period was around £123 million. Of that figure, approximately £84 million (or 68%) represents the sum transferred away from the BSPS. The average transfer value was approximately £293,000 (£314,000 for BSPS customers).

2.17. As of 20 February 2023, the Financial Services Compensation Scheme (FSCS) has upheld 221 Pension Transfer claims against PMC and paid out over £13.6 million in compensation to customers of PMC. In 82 cases (37%), the FSCS awarded the claimant the maximum compensation available of £85,000. Had it not been for the compensation limit of £85,000, the total compensation payable to customers would have been approximately £16.4 million.

2.18. One BSPS customer who was advised by Mr Morgan to transfer out of their Defined Benefit Pension Scheme had a child with long term care needs. The customer's child was totally dependent on them, and the customer was paying a mortgage and had no other significant assets or investments. Mr Morgan assessed the customer to be a *"low risk"* investor with limited capacity for loss. Key objectives for the customer were to retire soon in order to care for their dependent child and to leave a fund to safeguard their child's future upon their death.

2.19. The customer's Defined Benefit Pension was central to them being able to meet their income needs, and those of their dependent child, during retirement. Notwithstanding these clear objectives, the customer was given unsuitable advice by Mr Morgan to transfer out of their Defined Benefit Pension Scheme into another arrangement.

Mr Morgan' lack of fitness and propriety

2.20. During the Relevant Period Mr Morgan demonstrated a lack of competence and capability in providing Pension Transfer advice in his capacity as a CF30 (Customer) adviser and Pension Transfer Specialist, to customers regarding the transfer of funds out of their Defined Benefit Pensions. He also demonstrated a lack of competence and capability in carrying out the second-level review and check on the Pension Transfer advice provided by other advisers at PMC. As a qualified PTS, he should have brought an added degree of expertise and knowledge to his role as a customer adviser, as well as in providing the second-level review and checks on the advice of other advisers but failed to do so.

2.21. In particular, Mr Morgan incompetently failed to gather the necessary information regarding the customers' financial situation, the Ceding Arrangement and the Proposed Arrangement. In some cases, this meant that PMC should not have provided a Personal Recommendation at all, and in doing so breached regulatory requirements. He incompetently failed to challenge the stated preferences of the customer when making recommendations, without appropriate questioning or testing of their rationale and motivations. Mr Morgan also failed to properly assess whether the Pension Transfer that was recommended met the customer's investment objectives and failed to communicate with his customers in a way that met their information needs and was compliant with the Authority's rules.

2.22. Mr Morgan therefore failed to provide suitable Pension Transfer advice to PMC's customers, either in his capacity as the primary adviser or in his capacity as a PTS carrying out the second-level review and check. In particular he incompetently:

(1) failed to properly assess, on the basis of the information obtained, or give due consideration to, whether the customer could financially bear the risks associated with the Pension Transfer;

(2) failed to adequately consider the customers' financial situation, retirement needs, attitude to risk and alternatives to transfer, when assessing whether the customer was reliant on the Ceding Arrangement and therefore if the transfer out of their Defined Benefit Pension Scheme was suitable for them;

(3) failed to properly assess and give due consideration to whether the customer had the necessary experience and knowledge to understand the risks involved in the recommended Pension Transfer;

(4) failed to demonstrate that specific customer objectives which drove the Pension Transfer were in customers' best interests; and

(5) failed to undertake adequate transfer analysis to compare the benefits likely to be payable under the Ceding Arrangement with those afforded by the Proposed Arrangement.

2.23. Mr Morgan, and the advisers whose advice he signed off as PTS, used similar wording across the Suitability Reports provided to customers and recommended the same SIPP product to 96% of PMC's British Steel customers. In doing so, Mr Morgan failed to provide customers with Personal Recommendations that were sufficiently tailored to their personal circumstances.

2.24. Mr Morgan also demonstrated a lack of competence and capability as CF1 (Director) in ensuring that the business of the firm, for which he was responsible as a director performing an accountable higher management function, complied with the relevant requirements and standards of the regulatory system (these consisted of the relevant COBS Rules and the Authority's Principles for Businesses). In his capacity as a CF1 (Director), Mr Morgan demonstrated a lack of competence and capability by failing to take reasonable steps to implement and operate adequate risk management systems to:

(1) monitor and facilitate effective challenge and scrutiny of the reasons why PMC recommended almost all of its customers to transfer out of their Defined Benefit Pension, therefore giving up valuable guaranteed benefits; and

(2) monitor, regulate and allocate additional and appropriate resources to respond to the significant increase in Defined Benefit Pension Scheme work, which was largely driven by the influx of BSPS members seeking Pension Transfer advice, particularly during the second half of 2017.

2.25. Further, in his capacity as CF10 (Compliance Oversight) Mr Morgan demonstrated a lack of competence and capability in adequately monitoring and overseeing the quality and suitability of Pension Transfer advice given to customers of PMC from a compliance checking perspective.

2.26. In particular during the Relevant Period, Mr Morgan demonstrated a lack of competence and capability in performing his role of CF10 in that he:

(1) failed to ensure the adequate monitoring and oversight of the Pension Transfer advice process at PMC;

(2) failed to ensure that documents to be issued to customers were drafted with sufficient care and precision so as to be free of serious and misleading errors, resulting in the customer not being placed in a sufficiently informed position;

(3) failed to ensure that the steps in the Pension Transfer advice process were not bypassed or modified in such a way so as to risk the quality of the advice provided to customers; and

(4) failed to implement adequate systems and procedures to ensure that at the fact-finding stage advisers gathered all necessary information regarding the customer, including details of their financial situation, investment and retirement objectives, and risk appetite.

2.27. Mr Morgan's lack of competence and capability in this regard led to unsuitable Defined Benefit Pension Transfer advice being issued by PMC that was not in customers' best interests. Accordingly, they were not placed in a sufficiently informed position when making difficult and critical choices, often under time pressure, regarding their pension arrangements.

2.28. Mr Morgan's lack of competence and capability created a significant risk of unsuitable Pension Transfer advice being provided to his customers, as well as unsuitable advice actually being provided to PMC's customers. Accordingly, the Authority considers Mr Morgan's lack of competence and capability to be particularly serious because:

(1) Defined Benefit Pensions are a financial investment for which a customer's advice needs are high in respect of the decision to transfer out of the Ceding Arrangement;

(2) the irrevocable decision to transfer out of a DBPS can affect customers, and sometimes their dependants, for the rest of their lives;

(3) Mr Morgan's unsuitable Pension Transfer advice, and the advice he signed off as PTS, caused a significant risk of loss, as well as causing actual loss, to consumers who transferred out of their Defined Benefit Pension Scheme as a result of that advice. For some customers, their Defined Benefit Pension Scheme was their only retirement provision other than their state pension;

(4) Mr Morgan benefitted substantially from the breaches. Mr Morgan personally received £1,368,608 from initial and ongoing advice fees. The high rate of non-compliance by the firm with the COBS rules which characterised that advice means that a significant proportion of Mr Morgan's total income from the advice was attributable to his breaches;

(5) Mr Morgan's breaches disproportionately affected BSPS members, who made up the majority of his Defined Benefit Pension Transfer advice customers during the Relevant Period. Many of Mr Morgan's BSPS customers were in a vulnerable position due to the uncertainty surrounding the future of the BSPS; and

(6) the weaknesses in PMC's Pension Transfer monitoring and checking procedures, management systems and internal controls, for which Mr Morgan was responsible, were systemic.

2.29. The Authority hereby imposes a prohibition order on Mr Morgan, prohibiting him from performing:

(1) any Senior Management Function in relation to any regulated activities carried on by an authorised person, exempt person or exempt professional firm; and

(2) any function in relation to the regulated activity of advising on Pension Transfers and Pension opt-outs carried on by an authorised person, exempt person or exempt professional firm.

2.30. The Authority imposes the prohibition order on Mr Morgan because it is a necessary measure to further the Authority's objective of securing an adequate degree of protection for consumers.

2.31. The Authority also withdraws Mr Morgan's approval to perform the SMF3 (Executive Director) and SMF16 (Compliance Oversight) Senior Management Functions at PMC because it is appropriate and proportionate to do so in all the circumstances.

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.

"the Authority's Rules" means the Authority's Conduct of Business Sourcebook as applicable during the Relevant Period.

"British Steel Pension Scheme" or "BSPS" means the British Steel Defined Benefit Pension Scheme that was in force during the period 8 June 2015 to 7 December 2017.

"Ceding Arrangement" means the customer's existing pension arrangement with safeguarded benefits.

"CETV" means Cash Equivalent Transfer Value, which is a lump sum available to the member upon transferring their pension benefits into an alternative pension. It is calculated according to actuarial principles.

"COBS" means the Conduct of Business Sourcebook in the Authority's Handbook.

"Critical Yield" means an illustration of the annual growth rate (net of charges) that the customer would need to obtain upon investment of the CETV in order to replicate the benefits provided by the Defined Benefit Pension Scheme.

"Defined Benefit Pension Scheme", "Defined Benefit Pension" or "DBPS" means an occupational pension that pays out a defined benefit or guaranteed specified amount to the pension holder based on factors such as the number of years worked and the customer's salary.

"Defined Contribution" or "DC Pension" means a pension that pays out a non-guaranteed and unspecified amount depending on the defined contributions made and the performance of investments.

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

"EG" means the Authority's Enforcement Guide.

"FIT" means the part of the Authority's handbook relevant to assessing an individual's fitness and propriety.

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

"Insistent Client" means a client who has been given a personal recommendation by a firm in relation to the transfer of their safeguarded benefits, but who has decided to enter a transaction different from that which was recommended and wishes the firm to facilitate this.

"Normal Retirement Date" means the date (typically linked to the customer's age, for example 65) on which the pension scheme is due to pay the customer their member benefits.

"Pension Protection Fund" or "PPF" means a statutory public corporation which protects people with a Defined Benefit Pension when an employer becomes insolvent. If the employer does not have sufficient funds to pay the pension they promised, the PPF will provide compensation instead. However, some reduction may apply.

"Pension Transfer" means a transfer payment made in respect of any safeguarded benefits with a view to obtaining a right or entitlement to flexible benefits under another pension scheme.

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

"Personal Recommendation" means advice on the transfer of Defined Benefit Pension Scheme benefits into an arrangement with flexible benefits, explaining amongst other things why the firm has concluded that the recommended transaction is suitable for the customer.

"PMC" or "the firm" means Pembrokeshire Mortgage Centre Limited (trading as County Financial Consultants).

"Preferred Retirement Date" means the date when the customer plans to retire.

"Principles" means the Authority's Principles for Businesses set out in the Authority's Handbook.

"Proposed Arrangement" means the arrangement with flexible benefits into which the customer would move their funds from the Ceding Arrangement.

"Regulated Apportionment Arrangement" or "RAA" means the statutory mechanism that can be used in corporate restructuring whereby a sponsoring employer of a DBPS stops participating in the pension scheme (therefore freeing the sponsoring employer from its financial obligations to the pension scheme) in order to avoid insolvency, subject to certain conditions being met and the RAA being approved by The Pensions Regulator and the PPF.

"Relevant Period" means the period from 8 June 2015 to 7 December 2017.

"SIPP" means Self-Invested Personal Pension.

"Suitability Report" means the report which a firm must provide to its customer under COBS 9.4.1R which, amongst other things, explains why the firm has concluded that a recommended transaction is suitable for the customer.

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

"TVAS" means "Transfer Value Analysis" and is the comparison that a firm was required to carry out in accordance with COBS 19.1.2R prior to 1 October 2018, when a firm gave advice or a Personal Recommendation about, amongst other things, a Pension Transfer.

"TVAS Report" means a document that sets out for the customer a comparison of the benefits likely (on reasonable assumptions) to be paid under the Ceding Arrangement with the benefits afforded by the Proposed Arrangement, which firms were required to carry out in accordance with COBS 19.1.2R (and prepare in accordance with COBS 19.1.3R and 19.1.4R) prior to 1 October 2018.

4. FACTS AND MATTERS

Background

4.1. PMC was a small independent financial adviser firm based in Pembrokeshire, Wales, which traded under the name "County Financial Consultants". The firm was authorised by the Authority on 2 June 2008 and during the Relevant Period, had permissions to carry on regulated activities including advising on Pension

Transfers, advising on investments and arranging (bringing about) deals in investments. PMC initially started by advising British Steel workers on their redundancy packages before expanding into advice on Defined Benefit Pension Transfers. PMC entered into liquidation on 2 September 2020. Liquidators were appointed on 2 September 2020 and were removed on 22 March 2021. John Dean Cullen and Rachel Helen Lai of Menzies LLP were then appointed as liquidators on 22 March 2021.

4.2. During the Relevant Period, PMC advised 420 customers on whether to transfer out of their Defined Benefit Pension Schemes.

4.3. On 30 November 2017, PMC gave an undertaking to the Authority to cease all Defined Benefit Pension Transfer business.

4.4. On 7 December 2017, following intervention by the Authority, PMC applied for voluntary requirements to be imposed on it, whereby PMC was required to cease all regulated activities relating to Defined Benefit Pension Transfers. On 12 April 2018 PMC voluntarily applied to remove its permission to carry out all regulated activities relating to Pension Transfers on a permanent basis.

Defined Benefit Pension Transfers

4.5. Pensions are generally understood to be a traditional and tax-efficient way of saving money for retirement. The value of an individual's pension can have a significant impact on their quality of life during retirement and will determine how early they can afford to retire. Pensions are, in most cases, a primary resource for ensuring financial stability in retirement. For some people they are the only means of funding retirement.

4.6. Customers who engage authorised firms to provide them with advice in relation to their pensions place significant trust in those providing the advice. Where an advice business fails to conduct its affairs in a manner that is compliant with the Authority's regulatory Rules and requirements, this exposes its customers to a significant risk of harm. This is particularly so in the case of Defined Benefit Pension Transfer advice where it is critical that customers are provided with suitable advice on transferring their valuable benefits out of the scheme, taking a holistic and sufficiently detailed view of their individual circumstances.

4.7. It is important that advisers demonstrate competence and capability when advising customers regarding their pensions, ensuring that suitable advice is provided, having regard to all the relevant circumstances. This is even more important when customers have no option but to make a decision regarding their pension (often under time pressure), as was the case with PMC's British Steel Pension Scheme customers.

4.8. Transfer out of a Defined Benefit Pension Scheme involves giving up valuable guaranteed benefits in exchange for a Cash Equivalent Transfer Value (CETV) which is typically invested in a Defined Contribution pension. If a customer leaves a Defined Benefit Pension Scheme, they may have to purchase an annuity to obtain a particular level of income. Alternatively, they may rely on income from investments. However, there is often no guarantee as to the amount or duration of that income.

4.9. The introduction of pension freedoms in April 2015 for Defined Contribution pensions made transferring out of a Defined Benefit Pension Scheme an attractive option for some people. However, Authority guidance provides that, given the valuable nature of the guaranteed benefits provided under a Defined Benefit Pension Scheme, an adviser's starting point should be the assumption that transferring out and giving up those benefits is unlikely to be suitable for a customer. That is the default position unless the adviser can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the customer's best interests.

4.10. Notwithstanding the presumption of unsuitability in advising a client to transfer out of their Defined Benefit Pension Scheme, 403 of 420 customers (approximately 96%) were advised by PMC to transfer. The remaining 17 customers (4%) proceeded to do so in any event, as insistent customers.

The British Steel Pension Scheme (BSPS)

4.11. During the Relevant Period 268 (or approximately 64%) of PMC's 420 Pension Transfer customers were members of the BSPS. Mr Morgan advised, or signed off as PTS, the Suitability Reports for all of the firm's BSPS customers during the Relevant Period.

4.12. The BSPS was one of the largest Defined Benefit Pension Schemes in the UK, with approximately 125,000 members and £15 billion in assets as of 30 June 2017. In March 2017, the BSPS was closed to future accruals, which meant that no new members could join the BSPS and existing members could no longer build up their benefits. The BSPS also had an ongoing funding deficit.

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

4.14. On 11 August 2017, The Pensions Regulator gave its clearance for the RAA. Under the RAA, the BSPS would receive £550 million as well as a 33% equity stake in one of the sponsoring employers and the BSPS would transfer into the Pension Protection Fund (PPF). In addition, a new British Steel DBPS (BSPS 2) was proposed by the sponsoring employers in combination with the RAA proposal. The RAA received formal approval on 11 September 2017, which resulted in the BSPS being separated from the sponsoring employer.

4.15. The effect of the RAA was that members of the BSPS were required to make a choice between two different options offered by the BSPS, namely to either:

(1) Remain in the BSPS and therefore move into the PPF; or

(2) Transfer their benefits into BSPS 2.

4.16. Alternatively, BSPS members could elect to take a CETV and transfer their pension benefits into an alternative flexible pension arrangement, such as a personal pension scheme or other occupational pension scheme held by the member.

4.17. On 11 and 21 September 2017, the BSPS announced that it would separate from the sponsoring employer. Information about the options for members was available on the BSPS website from 11 August 2017. In October 2017, the BSPS distributed information packs to members about these options. Members were required to choose their preferred option by 22 December 2017. Those who wanted to transfer their Defined Benefit Pension funds from the BSPS to a personal pension were required to submit the requisite paperwork to execute the Pension Transfer by 16 February 2018.

4.18. The Rookes Review, an independent review of the support given to BSPS members during restructuring and 'Time to Choose', stated that BSPS members experienced, and were influenced by, a set of unique circumstances. These included the following:

(1) Distrust of their employer;

(2) Limited information on alternative options;

(3) Tight timescales to make a decision; and

(4) Limited support.

4.19. Some BSPS members were in vulnerable circumstances. They tended to have no other assets and relied more on income from their DBPS than members of other schemes.

PMC's Pension Transfer advice business

4.20. PMC generated Defined Benefit Pension Transfer advice business through its relationship with the steelworker community which was developed via direct contact with potential customers, as well as via referrals and introducers. This part of PMC's business grew rapidly over a relatively short period of time due to the circumstances surrounding the BSPS and the choices faced by BSPS members. During 2015 PMC advised 48 customers on Defined Benefit Pension Transfers, none of whom were BSPS members.

4.21. During 2017, PMC advised approximately seven times as many Defined Benefit Pension Transfer customers as it had in each of the previous years. Furthermore, 261 customers (most of whom were BSPS members) received advice from PMC during a four-month period between 1 August 2017 and 30 November 2017. At this point, PMC was advising an average of 65 customers per month.

4.22. Despite the substantial increase in Defined Benefit Pension Transfer business during 2017, PMC had only limited personnel working on Defined Benefit Pension Transfer cases. Capacity quickly became an issue. The Authority considers that taking on a large number of cases without adequately increasing staff numbers led to a further deterioration in both the quality of the advice provided and the level of compliance carried out. It also exacerbated systems and controls issues in respect of PMC's Pension Transfer advice process.

Charges

4.23. PMC's income from Defined Benefit Pension Transfer advice rose sharply during the Relevant Period.

4.24. PMC stated that their adviser charges were usually based on a percentage of the amount invested, but that it sometimes also agreed a charge with customers consisting of a fixed fee or a combination of a fixed fee and a percentage of the amount invested.

4.25. The most common method of payment was for PMC's charges to be deducted from funds invested. Client agreements also stipulated that fees may still be due even if the customer did not proceed with the investment.

4.26. There were two types of charges that PMC levied on its customers, both of which were typically calculated as a percentage of the amount invested:

(1) one-off initial advice charges based on a percentage of the investment figure (up to 4% for investments of up to £250,000, and up to 3% for investments of between £250,000 and £1 million) ; and

(2) an annual ongoing advice charge (1% for investments up to £1 million and 0.75% for those over £1 million).

4.27. Suitability Reports and customer agreements sampled by the Authority often incorporated an initial advice fee charge of 2% and an annual ongoing advice charge of 0.5%. The average cost of the initial advice fee was approximately £2,800. However, a significant number of customers paid over £5,000 and in one case a customer paid £17,663.57 in initial advice fees.

4.28. During the Relevant Period, PMC generated £1,910,873.29 in initial advice fees.

4.29. PMC's initial advice fee income relating to its Defined Benefit Pension Transfer advice increased significantly from £81,892.63 in 2015 to £865,979.07 in 2017.

4.30. Whilst the ongoing advice charge was an optional service for customers, the sharp increase in PMC's Defined Benefit Pension Transfer customers over this period also translated into additional income from this service. The approximate value of ongoing advice charges generated by PMC during the Relevant Period was £164,320.04. Depending on the ongoing service option selected by the customer, in return for the payment of an ongoing advice fee, PMC agreed to provide services such as analysing the customer's portfolio annually and advising on any recommended changes.

4.31. As Mr Morgan was personally involved in all of the Defined Benefit Pension Transfer advice at PMC, his own remuneration from this business area also increased significantly during the Relevant Period.

Mr Morgan

4.32. Mr Morgan has worked in the financial services industry since 1991, having obtained his Pension Transfer qualifications on 31 March 1999. He then started providing Defined Benefit Pension Transfer advice in 2004. From the date of PMC's authorisation on 2 June 2008 to the start of the Relevant Period, Mr Morgan advised approximately 90 customers on their Defined Benefit Pension Transfers. As well as having connections with individuals working for British Steel, Mr Morgan had himself worked for British Steel for several years.

4.33. Mr Morgan has been a director of PMC since 2003. At the point of PMC entering liquidation, Mr Morgan held 50% of the shares in PMC.

4.34. Throughout the Relevant Period, Mr Morgan held the CF1 (Director) and CF30 (Customer) controlled functions at PMC. From 5 October 2016, he also held the CF10 (Compliance Oversight) function, for the remainder of the Relevant Period.

4.35. Following the introduction of the Senior Managers and Certification Regime for all firms authorised by the Authority on 9 December 2019, the controlled functions Mr Morgan was approved to perform at PMC were replaced by the SMF3 Executive Director and SMF16 Compliance Oversight senior manager functions. Mr Morgan was also approved to hold responsibility for MCD Intermediation.

4.36. Mr Morgan either personally advised or was the PTS who carried out the review and second-level sign-off, in all instances of Defined Benefit Pension advice for the 420 Pension Transfer customers during the Relevant Period. He was also responsible for ensuring that PMC complied with the requirements and standards of the regulatory system relevant to Pension Transfers, both in his capacity as a CF1 (Director) and in his capacity as CF10 (Compliance Oversight) from 5 October 2016.

4.37. Mr Morgan was not paid as a director of PMC but was remunerated for his work as an advisor to new and existing customers of the firm. After payment had been received by PMC, the commission was distributed between the advisers according to their work on specific customer files.

Mr Morgan's lack of competence and capability in respect of PMC's compliance with the relevant requirements and standards of the regulatory system

Lack of competence and capability as CF1

4.38. PMC generated Defined Benefit Pension Transfer advice business through the relationship it had with the steelworker community which was brought about through direct contact with potential customers, referrals and introducers. This part of PMC's business grew rapidly over a relatively short period of time during 2017 due to the circumstances surrounding the BSPS and the choices faced by BSPS customers. During 2015 PMC advised 48 customers on Defined Benefit Pension Transfers, none of whom were BSPS customers. By comparison, in 2017 PMC advised 334 customers on Defined Benefit Pension Transfers, of whom 253 were BSPS customers.

4.39. PMC advised approximately seven times as many Defined Benefit Pension Transfer customers in 2017 as in the two previous years. Furthermore, 261 customers, most of whom were BSPS customers, were advised across a period of four months between the 1 August 2017 and 30 November 2017. At this point, PMC was advising an average of 65 customers per month.

4.40. Despite the substantial increase in Defined Benefit Pension Transfer advice business in 2017, PMC had only limited personnel working on Defined Benefit Pension cases. Mr Morgan acknowledged that *"capacity became an issue very quickly".* The Authority considers that taking on a large number of cases without adequately increasing staff numbers led to a further deterioration in both the quality of advice provided and the level of compliance checking carried out. It also exacerbated existing systems and controls issues in PMC's Pension Transfer advice process.

PMC's Pension Transfer advice process under Mr Morgan's oversight as CF1

4.41. During the Relevant Period:

(1) demand for Defined Benefit Pension Transfer advice outweighed the resources available at PMC;

(2) staff did not always follow PMC's procedures for giving advice in respect of whether to transfer out of a DBPS; and

(3) PMC did not have adequate risk management systems and controls relating specifically to Defined Benefit Pension Transfers, despite this growing to be a substantial part of their overall business.

4.42. In particular:

(1) PMC's usual process was for an adviser to meet with the customer and then to debrief with an administrator or paraplanner before the administrator or paraplanner drafted a Suitability Report. However, during the Relevant Period, Suitability Reports were drafted by administrators or paraplanners without having first spoken to either the customer or the adviser. As a result, information gathered by the adviser that was not apparent from PMC's files would not be considered or reflected in the draft Suitability Report (although Suitability Reports were reviewed and checked by advisers before being issued to customers). The risks associated with this process were exacerbated by the fact that appropriate records of discussions with customers and information provided by customers were, in a number of instances, not reflected in PMC's files;

(2) due to the increase in the volume of Suitability Reports that were being prepared, less time was spent writing each individual report. There was therefore a focus on quantity rather than quality. The Suitability Reports sampled by the Authority contained numerous typographical and numerical errors. Further, the Suitability Reports were templated and insufficiently personalised; and

(3) PMC did not have adequate policies and procedures that were specifically tailored to providing advice on Defined Benefit Pension Transfers, despite this growing to be a substantial part of PMC's business. Whilst PMC produced some documents to guide the advice and sales process these were basic, generic documents.

Lack of competence and capability as CF10

4.43. Given the very high volumes of Defined Benefit Pension Transfer advice being provided by limited numbers of staff at PMC, it was important that Mr Morgan took appropriate steps to monitor the quality of advice being provided to customers and to take appropriate action where the required standards were not being met. However, Mr Morgan failed to implement adequate and appropriate compliance processes and procedures to ensure compliance with the relevant requirements and standards of the regulatory system.

4.44. PMC had a number of documents that set out how the files should be checked for compliance and in or around April 2016, PMC instituted a process for review of Defined Benefit Pension Transfer advice provided by PMC. However, there is limited evidence of effective review or challenge in respect of PMC's suitability determinations. In particular:

(1) although from around April 2016 100% of PMC's files were said to have been subject to compliance checks, the suitability determination was only overturned in one or two cases. Given that PMC advised 334 customers in 2017 alone, this amounts to a pass rate of between 99.4% to 99.7%;

(2) whilst a checklist was apparently used to ensure that files were complete and suitable for submission, there was no written evidence of this checklist having been completed in any of the 20 customer files reviewed by the Authority. Two populated checklists (relating to different files) that were provided to the Authority contained limited free text and appeared to restate customer information and views rather than engaging in a suitability analysis;

(3) a second checklist that appeared to have been used by PMC recorded the dates on which certain documents and tasks were completed during the advice process. However, it did not record an analysis of suitability. Neither did the checklist allow the reviewer to record any reasons as to why they considered the Personal Recommendation made by PMC to be appropriate;

(4) for most of the Relevant Period, including during peak periods of Pension Transfer advice activity in 2017, PMC had very limited personnel dedicated to Pension Transfer advice; and

(5) in his capacity as the Pension Transfer Specialist at the firm, Mr Morgan was required to check files where he was not the adviser. However, no records have been provided of any such reviews or any associated recommendations arising from them.

4.45. In summary, during the Relevant Period, Mr Morgan demonstrated a lack of competence and capability by failing to ensure that PMC had proper processes in place for effective challenge and scrutiny of the Pension Transfer advice given to customers, despite PMC advising 96% of its customers to transfer out of their

Defined Benefit Pension Schemes. Often only rudimentary compliance reviews were recorded. The lack of monitoring undertaken by PMC therefore created a risk of inappropriate customer outcomes. These failings are apparent from the individual customer files reviewed by the Authority. Further, Mr Morgan said at interview that the compliance checks took place after advice had been provided to customers.

Mr Morgan's lack of competence in providing unsuitable advice to customers

Background to the Authority's review of PMC's advice

4.46. The Authority monitored the Defined Benefit Pension Transfer advice market and identified firms that had advised on a significant volume of British Steel Pension Scheme transfers. PMC was one such firm identified by the Authority. The Authority visited PMC's offices and reviewed the processes adopted by the firm in respect of this workstream and identified the following:

(1) concerns in respect of PMC's Pension Transfer advice process, monitoring systems and record-keeping. In particular, the Authority considered that PMC failed to demonstrate that it had considered and understood the nature, scale and complexity of the risks arising from the firm's business model, and the risks consequently posed to customers. The Authority also identified that PMC had not put in place appropriate processes to manage those risks;

(2) concerns, based on a review of a sample of files, that the Pension Transfer advice provided by PMC was unsuitable, including because the advice was insufficiently tailored to each customer's individual circumstances. The Authority found that despite Suitability Reports containing clear references to the benefits of not transferring, customers were still ultimately advised by PMC to transfer; and

(3) little or no evidence that PMC obtained the necessary information regarding customers' investment objectives. The overarching objective in all the files reviewed was to transfer away from the British Steel Pension Scheme, with some commonality in the language used across the various files.

Review by the Authority of a representative sample of PMC's files

4.47. The Authority then requested and assessed a further 20 files against the applicable rules found in the Authority's Conduct of Business Sourcebook (COBS) relating to suitability. Mr Morgan was the adviser in 19 out of the 20 files reviewed and was the Pension Transfer Specialist overseeing the advice of another adviser in the remaining customer file. All of these files related to customers who completed Pension Transfers out of their Defined Benefit Pension Scheme. Of this sample of 20 files, 14 related to customers who were former British Steel Pension Scheme members.

4.48. The results of the file review exercise conducted by the Authority demonstrated that Mr Morgan either gave advice, or carried out second-level review and sign-off on advice files as PTS, in which:

(1) he failed to collect the necessary information to give Pension Transfer advice in 65% of cases, which meant that he should not have proceeded to make a Personal Recommendation to the customer. The consequence was that in 15% of total cases the Authority was unable to assess whether the advice was suitable (see *"Information collection failures"* below);

(2) he gave unsuitable Pension Transfer advice in 60% of cases (giving suitable advice in only 25% of cases) (see *"Unsuitable pension transfer advice"* below);

(3) he gave unsuitable investment advice in 30% of cases (see *"Unsuitable investment advice"* below); and

(4) poor quality communications with customers were identified in 85% of the files reviewed. He therefore failed to communicate with customers in a manner that was clear, fair and not misleading (see *"Poor quality communications with customers"* below).

4.49. The average transfer value for the 12 customers who received unsuitable Pension Transfer advice was approximately £276,000. Eleven of the 12 customers who received unsuitable advice were members of the British Steel Pension Scheme. For most of these customers, their Defined Benefit Pension was their most significant, and in some cases their only, valuable asset.

4.50. Seventeen of the customers had an average of £21,242 in assets. Some customers had no assets listed to their names at all in the fact find or had very limited resources. Some had no access to alternative pension provisions recorded other than their state pension, including those of a spouse or partner. Mr Morgan acknowledged that many BSPS customers had few investments and had *"common ailments such as high blood pressure"*.

4.51. This demonstrates the importance of ensuring that these customers received suitable Pension Transfer advice, especially given the impact that the decision to transfer their pension would have on their future retirement income and, therefore, their future quality of life.

Information collection failures

4.52. The overarching suitability requirement, in COBS 9.2.1R, in force at the time, was for a firm to take reasonable steps to ensure that a Personal Recommendation, (which in this context includes a recommendation to transfer or not to transfer a pension), is suitable for its customer. To do so, a firm must obtain the necessary information regarding the customer's (a) knowledge and experience in the investment field relevant to the Pension Transfer; (b) the customer's financial situation; and (c) the customer's investment objectives (COBS 9.2.1R(2)(a)-(c)).

4.53. Making a Personal Recommendation without the necessary information increases the risk of providing unsuitable advice and is in breach of the Authority's Rules. If a firm does not obtain the necessary information to assess suitability such that there are material information gaps, it must not proceed to make a Personal Recommendation (COBS 9.2.6R).

4.54. Mr Morgan was aware of this requirement. However, firm guidance stated that *"If a client did not want to discuss any particular aspect of financial planning, this will be noted on the fact find and no further information will be required in that area".* This created the risk of advice being given to customers without the necessary information first having been obtained.

4.55. The Authority's file review revealed that sections of the fact-find and Suitability Reports for BSPS members were very similar, often stating that the customer did not trust the new BSPS 2 scheme, did not want to go into the PPF and wanted control of their pension scheme. Similar or templated wording was also seen in BSPS members' fact-finds regarding their objectives. Although the circumstances of some customers may have looked similar, there was little evidence of effective challenge or scrutiny of stated objectives. Accordingly, Mr Morgan demonstrated a lack of competence and capability by failing to sufficiently explore individual circumstances. This created the risk of unsuitable Pension Transfer advice being given to customers.

4.56. The Authority's review of 20 customer files revealed that in three cases the files contained insufficient information such that Mr Morgan should not have proceeded to make a Personal Recommendation, as a full suitability assessment could not be made. This therefore put the customer at risk of receiving unsuitable Pension Transfer advice. The information missing from the files included the customer's expenditure plans in retirement.

4.57. Customer A, for example, had been a steelworker for over 30 years. At the time of seeking advice from Mr Morgan, Customer A wished to retire early, as did their spouse who had recently suffered from cancer and undergone surgery, so they could travel together. Based on the estimated transfer value, Customer A's British Steel pension was by far their most valuable asset, and therefore critical to their quality of life in retirement.

4.58. Mr Morgan demonstrated a lack of competence and capability by providing Pension Transfer advice to Customer A in circumstances where he had failed to gather sufficient information to properly assess the degree of Customer A's reliance on their British Steel pension. This included information regarding the precise nature and extent of Customer A's state pension entitlement, and Customer A's income needs during retirement, including the estimated cost of travel, being one of Customer A's stated intentions for retirement.

Failure to gather information on retirement expenditure

4.59. Mr Morgan frequently failed to gather sufficient information on the customer's anticipated expenditure during retirement. This information was missing either in full, or in part, from 11 of the 20 files reviewed by the Authority during its file review exercise. COBS 9.2.2R(3) requires a firm to obtain information from the customer regarding their regular financial commitments.

4.60. This information is relevant to assessing how much income the customer will need throughout their retirement and to assessing whether their Defined Benefit Pension Scheme, or the alternative schemes being considered, would generate sufficient income to cover their anticipated financial commitments. It is also necessary to gather information on the other financial resources, if any, that are available to the customer. A proper assessment of a customer's income needs during retirement cannot be made if anticipated retirement expenditure is not obtained, is not described in enough detail, or there are material information gaps.

4.61. The fact-find templates, known as "Confidential Financial Review forms", used by PMC only included two questions designed to capture realistic retirement income needs. With regard to information on customers' retirement income needs, it is apparent that Mr Morgan frequently did not capture this information in their customer files or did not take these factors into consideration when making Personal Recommendations. Mr Morgan accepted instances of this failure in interview with the Authority. Mr Morgan demonstrated a lack of competence and capability by failing to obtain necessary information before providing Pension Transfer advice to customers.

Failure to gather information on the customer's financial situation

4.62. Information on the customer's financial situation was missing in 9 out of the 20 files reviewed by the Authority. Mr Morgan was the primary adviser on each of the 9 files. Mr Morgan therefore demonstrated a lack of competence and capability by failing to ensure that his advice complied with requirements for a firm to obtain information on the customer's assets and other sources of income and liabilities in accordance with COBS 9.2.2R(3).

4.63. This information was relevant to Mr Morgan's holistic understanding of the customer's financial situation and the likely impact of the proposed Defined Benefit Pension Transfer on the customer's overall financial position. The missing information included the customers' investment objectives, their tax position and other matters including their ability to access state benefits. Without obtaining this information, the customer's financial resilience and reliance upon their Defined Benefit Pension could not be accurately assessed.

Failure to gather information about the Ceding Arrangement

4.64. Necessary information about the Ceding Arrangement was missing in 6 out of the 20 files reviewed by the Authority. Mr Morgan therefore demonstrated a lack of competence and capability by failing to ensure that his advice complied with the requirement for PMC to obtain information on the customer's Ceding Arrangement in accordance with COBS 9.2.2R(1). This information was necessary to enable Mr Morgan to carry out the required Transfer Value Analysis, including considering how the loss of guaranteed Defined Benefit Pension Scheme benefits would impact the customer's investment objectives and general financial situation.

4.65. For example, where a firm fails to obtain information regarding commuting the Defined Benefit Pension for tax-free cash when this is one of the main objectives, the adviser is not in a position to compare whether transfer into the Proposed Arrangement better meets the aim of the customer.

Failures in gathering information to enable Transfer Value Analysis

4.66. Prior to 1 October 2018, PMC was required to gather information to enable it to carry out the necessary Transfer Value Analysis in accordance with COBS 19.1.2R(1). This analysis was required so that advisers at the firm could compare the likely benefits of the Ceding Arrangement with those afforded by the Proposed Arrangement. The main output from the Transfer Value Analysis is a series of percentages, known as "Critical Yields". The Critical Yields illustrate the annual growth rate (net of charges) that the customer would need to obtain on an investment of the cash transfer value in order to replicate the benefits provided by the Defined Benefit Pension Scheme.

4.67. In order to complete the Transfer Value Analysis, the firm was required to collect information on the benefits payable and options available under the Ceding Arrangement, the benefits payable and options available under the Proposed Arrangement, and the effect of replacing the former with the latter, taking into account the customer's relevant circumstances. Three of Mr Morgan's files failed this assessment during the course of the Authority's file review. Mr Morgan demonstrated a lack of competence and capability by failing to ensure that the comparison had been completed and that it included sufficient information for the customer to be able to make an informed decision.

Example of multiple failures to gather information – Customer E

4.68. At the time of receiving advice from Mr Morgan, Customer E was in their mid-40s and had four dependent children. Based on the estimated transfer value, Customer E's Defined Benefit Pension was their most significant asset, and so critical to their quality of life during retirement. Mr Morgan provided Pension Transfer advice to Customer E in circumstances where PMC had failed to gather sufficient information to properly assess the degree of Customer E's reliance on their Defined Benefit Pension.

4.69. There was no evidence on file that Mr Morgan obtained any details about Customer E's estimated current or anticipated retirement expenditure, including essential costs, lifestyle and discretionary expenditure. Further, large sections of the fact-find were left blank, including key information such as any amounts held by the customer in bank accounts or shares. Accordingly, the Ceding Arrangement and Proposed Arrangement could not be properly compared to determine whether, and if so how, Customer E's retirement income needs were best met.

4.70. Mr Morgan had not collected the necessary information to complete an accurate Transfer Value Analysis. Nor did his analysis account for the possibility of late retirement (which had been raised in the fact-find) or early retirement (which had been raised in the Suitability Report). Further, the Transfer Value Analysis appears to have been undertaken using the incorrect Normal Retirement Date. This meant that the calculation as to the required growth rate and longevity of the fund were inaccurate.

4.71. Customer E followed Mr Morgan's advice and transferred out of their Defined Benefit Pension Scheme, giving up the guaranteed benefits that they would otherwise have been entitled to. The lack of information on file in relation to Customer E was such that the Authority was unable to assess the suitability of the Pension Transfer advice. Mr Morgan should not have provided Pension Transfer advice in breach of regulatory requirements, as he had failed to obtain sufficient information to ensure the suitability of the advice.

Unsuitable pension transfer advice

4.72. The overarching suitability requirement under COBS 9.2.1R(1) is for a firm to take reasonable steps to ensure that a Personal Recommendation (which includes, in this context, a recommendation to transfer or not to transfer a pension) is suitable for its customer.

4.73. The Authority's file reviews of 20 customer files found that 12 customers (60%) received unsuitable Pension Transfer advice (Mr Morgan was the adviser on 11 of the files and carried out a second-level review and check on the remaining file). Of these, 11 were former BSPS members. All of the 12 files failed for multiple reasons.

Customers reliant on the Defined Benefit Pension Scheme

4.74. In 11 out of 20 files Mr Morgan demonstrated a lack of competence and capability by failing to assess, or give adequate consideration to, whether customers were reliant on the income from their Defined Benefit Pension Scheme and whether they could financially bear the risks involved in a Pension Transfer. He was the primary adviser on 10 of the 11 files, and the reviewing PTS on the one remaining file. Mr Morgan therefore failed to make this assessment despite knowing that, following the recommended Pension Transfer, the customers' retirement income would depend on the performance of the new investment in the Proposed Arrangement.

4.75. At the time of receiving advice from Mr Morgan, Customer Y was in their late 40s, had a dependent child, and had worked as an electrical engineer for over 30 years. Based on the estimated transfer value, Customer Y's Defined Benefit Pension was their most significant asset, and so critical to their quality of life during retirement. The information provided by the customer suggested that they were reliant on the income from the Defined Benefit Pension Scheme and could tolerate no, or very limited, loss. Further, the customer strongly agreed with the statement *"I would rather know that I was getting a guaranteed rate of return than be uncertain about my investment"*.

4.76. The advice provided by Mr Morgan failed to demonstrate a reasonable basis for believing that the customer was financially able to bear any risks associated with transferring out of their Defined Benefit Pension Scheme, which required an objective assessment by Mr Morgan. Mr Morgan recommended a Pension Transfer despite identifying in the Suitability Report that, based on the Critical Yield figures, as a low-risk investor, the customer would be *"highly likely to be worse off"* than if they *"remained in the scheme and accepted the benefits that are guaranteed"*.

4.77. Although Customer Y's objective of improved death benefits was achieved by transferring out of the Defined Benefit Pension Scheme, this was at the expense of giving up the guaranteed income upon which the customer was reliant. There was no evidence that Mr Morgan adequately explored alternatives in order to meet this objective. By acting in accordance with Mr Morgan's advice, Customer Y transferred out of a Defined Benefit Pension Scheme and in doing so forewent valuable, guaranteed benefits that would have secured their financial stability in retirement, in circumstances where they could tolerate no, or very limited, loss.

4.78. In 16 out of the 20 files reviewed by the Authority, the destination investment was the same for all 16 customers advised by Mr Morgan. Of the 268 BSPS customers, who either received Pension Transfer advice from Mr Morgan or whose advice he reviewed and checked as PTS during the Relevant Period, 257 customers (96%) were recommended a single SIPP product. Out of the remaining 152 non-BSPS customers who received Pension Transfer advice, there were 91 examples (60%) of transfer into the same SIPP product.

4.79. Mr Morgan said that the rationale for advising the vast majority of BSPS customers to transfer into a single well-known fund, was that BSPS members were vulnerable to market volatility and potential losses in the short term. Mr Morgan said that PMC accordingly advised customers to transfer into a *"smoothed fund"*. Smoothed Managed Funds aim to deliver growth over the medium to long term, employing a smoothing process with the aim of sheltering clients from some of the impact of adverse market movements. However, the smoothing service inevitably attracts a fee for the customer.

4.80. The Authority considers that if Mr Morgan's view was that transferring out of the Defined Benefit Pension Scheme exposed customers to market volatility which they did not have the capacity to withstand, they should not have been advised to transfer out of their Defined Benefit Pension Scheme in the first place. Accordingly, there would have been no need to transfer into smoothed funds that would attract smoothing service fees for the customer.

Objective of leaving the BSPS not in customers' best interests

4.81. Even though Mr Morgan said that he was aware of the Authority's Guidance on the Presumption of Unsuitability set out in COBS 19.1.6G(2) (or, from 8 June 2015 to 1 April 2018, in COBS 19.1.6G), he demonstrated a lack of competence and capability by reviewing and checking advice as PTS, and advising customers to transfer out of their DBPS against this presumption because:

(1) he was of the view that BSPS members considered the greatest risk to their pension as being invested in BSPS 2 or a Government scheme and had decided independently of PMC's advice that they did not want to take this risk. With regard to BSPS 2, customers were concerned by the level of uncertainty and the reduction in the size of the funds payable to those drawing upon their pension under BSPS 2. The Suitability Reports compiled by Mr Morgan for several of the customers used the same templated wording in respect of BSPS 2, which read *"You are concerned with the BSPS2 as you are unsure as to what the scheme has to offer and you have your doubts as to whether it will be successful at all"*; and

(2) he was also of the view that despite PMC's best endeavours to explain the guaranteed benefits of a customer's existing British Steel Pension Scheme, a common customer objective was to take control of their pension and the vast majority of customers had very strong opinions on the route they

wished to take. Some customers said they had lost trust in the BSPS and felt that they had been treated poorly by the scheme.

4.82. Mr Morgan said that members were not advised to await details of BSPS 2 for these reasons. He demonstrated a lack of competence and capability in giving this advice because it was not in the best interests of the customer on the basis that they had not taken into consideration details of all the options available to them. Although there was evidence within Suitability Reports that some key benefits of the PPF were set out, this was not sufficiently detailed.

4.83. Whilst it was appropriate for Mr Morgan to have regard to a customer's stated objectives, he was also required to take reasonable steps to ensure that he explained the benefits of the valuable, guaranteed DBPS income and provided suitable advice to customers taking into account all their circumstances. If he was of the view that a transfer out of the Defined Benefit Pension Scheme was not in the best interests of the customer, even if that meant certain of the customer's stated objectives could not be achieved, then that advice should have been made clear to them.

4.84. Mr Morgan's approach to advice frequently meant that a transfer out of the Defined Benefit Pension Scheme was deemed the best option, based primarily on the opinion of the customer, without an adequate assessment of the customer's circumstances or a sufficient degree of challenge. He failed to justify why the objective of taking "control" or separation from BSPS 2 or the PPF outweighed the benefit of the guarantees these schemes provided such that it was in a customer's best interests to transfer out of the Defined Benefit Pension Scheme.

4.85. Therefore, in the advice he provided or that he reviewed and checked as PTS the unchallenged opinions of the customer often prevailed with alternative options to a Pension Transfer being ruled out. This was contrary to the Authority's Guidance regarding the Presumption of Unsuitability in relation to transfers out of Defined Benefit Pension Schemes.

Other objectives not in customers' best interests

4.86. Mr Morgan demonstrated a lack of competence and capability in failing to demonstrate that other specific objectives which drove the Pension Transfer were in customers' best interests, taking a holistic view of their circumstances and having regard to the primary purpose of a pension. For example:

(1) in the case of Customer F, the customer expressed a desire for control and flexibility and to have their *"money pot…in [their] own hands"*. However, it was not apparent from the customer's financial circumstances or retirement requirements, that transferring out of their Defined Benefit Pension Scheme was otherwise in their best interests. The Authority observed a similar pattern in other files where Mr Morgan was the adviser, in which the advice to the customer to transfer out of their Defined Benefit Pension Scheme prioritised factors such as the customer's emotional response to the situation they faced with British Steel, rather than their retirement needs and risk profile;

(2) another common objective that appeared on files during the Authority's review was the maximisation of death benefits. In 12 of the 20 files reviewed by the Authority (60%), consideration was not given to how these objectives could be met without transfer out of the Defined Benefit Pension Scheme, such as by using another non-guaranteed pension provision, for example, to buy life cover, thereby retaining the DBPS benefits. Mr Morgan was the adviser on 11 of the files and carried out the second-level review and check as PTS on the remaining file; and

(3) In several files reviewed by the Authority, the interplay between an early retirement objective and reliance on the Defined Benefit Pension Scheme's guaranteed income was not considered in the assessment contained in the Suitability Report. Because this analysis was not completed, there were also examples of Mr Morgan advising customers to transfer out of their DBPS in order to achieve potentially unrealistic and unaffordable objectives. For example, in the case of Customer G, Mr Morgan recommended a Pension Transfer with the intention that the customer would flexibly access funds from the pension at age 55 when they had no other significant assets to draw upon apart from their home. There was no documented discussion with the customer about the longevity of the fund and ensuring that the customer would be able to fund their retirement in the long term.

4.87. The primary purpose of a pension is to meet the income needs of an individual in retirement. However, by treating maximisation of a customer's death benefits, or seeking flexibility via alternative pension arrangements, as a high priority, there is an increased risk that this is at the expense of the primary income purpose. There may therefore be a trade-off that must be resolved in the best interests of the customer given their individual circumstances (COBS 9.2.1R(1) and 9.2.2R(1)(b)).

4.88. The Authority's file review exercise uncovered examples of where this tension was resolved in favour of transfer, but where Mr Morgan did not demonstrate why this was the case and why it was in the best interests of the customer. Instead, Mr Morgan set out in generic terms, the disadvantages of the Pension Transfer and balanced these with the customer's supposedly adequate level of knowledge of their options, risk and investments. This was used as a means of justifying the Pension Transfer even though it was not in the customer's best interests. This approach had the following impact:

(1) Mr Morgan incorrectly represented that the customer, from an informed and knowledgeable position, was responsible for the advice to transfer out of the DBPS;

(2) Mr Morgan failed to analyse and present findings as to how the trade-off was resolved; and

(3) Mr Morgan did not carry out proper analysis of the customer's attitude to the transfer risk.

4.89. This meant that the requirement in COBS 9.2.1R(1) for the firm to take reasonable steps to ensure that the Personal Recommendation was suitable for the customer was not met.

Lack of necessary attitude to transfer risk, insufficient knowledge and experience

4.90. Mr Morgan, acting as an adviser and PTS at PMC, was obliged to obtain information on the customer's preferences regarding risk taking and their risk profile (COBS 9.2.2R), to ensure that the customer was prepared to exchange the guaranteed benefits of the Defined Benefit Pension Scheme for non-guaranteed benefits which are subject to customer-borne investment risk. Mr Morgan was also required to obtain sufficient information to provide a reasonable basis for believing that the customer had the necessary experience and knowledge to understand the risks involved in the Pension Transfer.

4.91. In 8 out of the 20 files reviewed by the Authority (40%), Mr Morgan either did not assess, or did not give adequate consideration or sufficient weight to, the customer's attitude to transfer risk, whether the customer had the necessary knowledge and experience in order to understand the risks involved, and whether they were able to bear the financial risks of losing guaranteed benefits from a Defined Benefit Pension Scheme. Where information was obtained from the customer regarding their knowledge and experience of the associated risks, there is no evidence that this was explored, verified or challenged. The information contained in the files often showed that the customer lacked experience, whereas Mr Morgan did not assess them to be inexperienced.

4.92. Mr Morgan demonstrated a lack of competence and capability by failing to show that he had properly assessed whether the fact a customer had a particular investment, for example a Defined Contribution pension, provided them with sufficient knowledge to understand the proposed Pension Transfer.

4.93. In the case of Customer I, they provided attitude to risk responses which indicated that they preferred a guaranteed rate of return rather than being uncertain about their investment return. This customer was in their early 30s, however they were making an irrevocable decision to transfer out of their DBPS which would affect them for the rest of their life. The advice provided by Mr Morgan to the customer was to transfer out of their Defined Benefit Pension Scheme, with the alternative of the PPF being rejected due to the customer's desire for flexibility and to have control over their pension.

4.94. The mismatch between the customer's attitude to risk and required Critical Yield was recognised in the Suitability Letter which stated in capital letters that as a low-risk investor the customer was *"highly likely to be worse off than if [they] remained in the scheme"*. However, it was stated that the customer had nevertheless *"agreed"* that transfer out of their Defined Benefit Pension Scheme was more appropriate. This was in breach of the requirement to ensure that the transaction meets customer objectives, which includes appropriate risk taking that reflects their risk profile.

Transfer unnecessary to protect the pension fund

4.95. In 8 out of 20 files reviewed by the Authority Mr Morgan recommended a transfer out of the Defined Benefit Pension Scheme in order to protect the customer's pension fund. This was in circumstances where the Ceding Arrangement, or alternative choices which did not involve transfer, would have provided better protection and created less risk for the customer.

4.96. This was particularly relevant for BSPS customers. Although Suitability Reports often referred to the protection of the PPF, many reports also stated, using templated wording, that customers were very concerned about the PPF taking over. No assessment was given as to how this factor was dealt with by Mr Morgan as part of his advice.

4.97. This demonstrates a failure to engage in a meaningful analysis of suitability or explain the customer's response to the firm's assurances or risk warnings. The files reviewed by the Authority showed that Mr Morgan failed to appropriately engage with resolving the tension between customers' preferences to move away from their Defined Benefit Pension Scheme therefore avoiding the PPF, and their desire or need for guaranteed benefits, their limited capacity for loss and their level of risk aversion.

Poor Pension Transfer Analysis

4.98. Mr Morgan demonstrated a lack of competence and capability by failing to undertake adequate transfer analysis to compare the benefits likely to be paid under the Defined Benefit Pension Scheme with benefits afforded by the Proposed Arrangement. This was because he consistently failed to take into account the customer being able to access up to 25% of the value of the fund in tax-free cash at the start of their retirement. In failing to take this into account, Mr Morgan provided customers with misleading calculations and comparisons.

4.99. Further, Mr Morgan demonstrated a lack of competence and capability by failing to carry out analysis using the correct Preferred Retirement Date for the customer. This could have created a misleading picture about how the Ceding Arrangement and the Proposed Arrangement compared, resulting in the customer not being placed in a sufficiently informed position about the choice they faced. Using the incorrect tax-free cash sum or incorrect Proposed Retirement Date created the risk that the wrong Critical Yield figure was provided to the customer.

4.100. The TVAS documents also provided an indication, using Critical Yield figures, of the level of risk that the customer would have to take in order to achieve the same benefits. Where Mr Morgan's analysis showed that the benefits of remaining in the Ceding Arrangement outweighed those likely to be available under the

Proposed Arrangement, this was a strong indication that the Pension Transfer was not in the customer's best interests.

4.101. At the time of receiving advice from Mr Morgan, Customer H was in their mid-30s, married with two dependent children and had worked as a steelworker for over 10 years. Customer H's attitude to investment risk was assessed to be *"low to lowest medium risk".* In his advice, Mr Morgan warned (using text in capital letters) that, based on the Critical Yield figures, and given that Customer H was *"a low risk investor",* Customer H would be *"worse off than if [they] remained in the scheme"*. Nevertheless, he advised Customer H to transfer out of their Defined Benefit Pension Scheme on the basis that their *"main drivers cannot be met by the scheme"*. Mr Morgan did not take reasonable steps to ensure that the customer understood the key outcomes from the TVAS. The advice was also unsuitable because it advised a customer with a high Critical Yield and a low risk tolerance to transfer out of a Defined Benefit Pension Scheme.

Certainty of income

4.102. In 3 out of the 20 files reviewed by the Authority the customer expressed a need or wish for certainty of income in retirement. However, a transfer out of the Defined Benefit Pension Scheme was recommended by Mr Morgan despite the fact that this objective was already achieved by remaining in the Defined Benefit Pension Scheme. This advice unnecessarily exposed the customer to the costs and risks associated with a transfer out of a Defined Benefit Pension Scheme into a personal pension.

Unsuitable investment advice

4.103. The suitability requirement in COBS 9.2.1R extends to the Proposed Arrangement into which the firm has recommended the customer should transfer their pension funds. Just as the adviser must ensure that the customer can bear the transfer risk, so they must ensure that there is a reasonable basis for believing that the customer can bear the risks associated with the Proposed Arrangement.

4.104. In 6 out of the 20 files reviewed by the Authority, investment advice, provided by Mr Morgan in 5 of the files as adviser, and on one file which he signed off as PTS, was deemed unsuitable. Reasons for this view included that:

(1) the recommendation made was unsuitable for how, or when, the customer intended to access their pension fund. Mr Morgan advised customers to transfer out of their Defined Benefit Pension Schemes in circumstances

where the new pension arrangement was designed to be a medium to long term investment. The customer intended to draw an income from the Proposed Arrangement in the near future. However, they had insufficient funds in cash to facilitate this;

(2) upon transfer out of the Defined Benefit Pension Scheme the customer incurred unnecessary or excessive adviser or product charges. Where the Proposed Arrangement carries such unnecessary or excessive charges, the recommendation is not likely to be in the customer's best interests;

(3) the customer was not willing to take the required risk with the sum invested. There was a failure by Mr Morgan to carefully assess the responses to the Attitude to Risk questionnaire in making a Personal Recommendation; and

(4) the customer did not have the capacity to bear the risk of the Proposed Arrangement. Although the SIPP was described as a *"cautious fund",* SIPPs are often used to invest in unregulated investments that are high risk and therefore unsuitable.

4.105. For example, at the time of receiving advice from Mr Morgan, Customer L was approaching the age of 55 and had been employed as a steelworker for over 35 years. They had suffered what was described in the Fact Find as a *"massive heart attack"* two years earlier. Based on their responses to the Attitude to Investment Risk questionnaire, Customer L was assessed to be low-risk, with no or very limited capacity for loss. It was also apparent from Customer L's responses that they would rather have a guaranteed rate of return and would prefer to hold money in a bank account than invest in shares. In those circumstances, there was no reasonable basis for the conclusion that Customer L could bear the risk of transferring into a SIPP. Despite this, Mr Morgan recommended a SIPP which included investments in equities.

4.106. Further, at the time of the advice, Customer L was only months away from reaching their desired retirement age and appeared to have been considering taking a tax-free pension commencement lump sum at the start of their retirement. However, there does not appear to have been sufficient discussion regarding the amount Customer L wished to take in cash, which was highly relevant to determining the proportion of transferred funds that should be held in cash. In those circumstances, there does not appear to have been a reasonable basis for Mr Morgan's recommendation that only 2.05% of the transferred funds be held in cash, with the remaining 97.95% of funds being transferred into a SIPP.

Poor quality communications with customers

4.107. The Authority's Rules about the provision of information to customers are designed to ensure that customers have all the necessary information to make an informed decision and are, ultimately, treated fairly.

4.108. The firm, through Mr Morgan's advice, failed to comply with the Authority's Rules in 17 of the 20 of cases reviewed by the Authority.

4.109. Across the files reviewed, objectives, priorities and recommendations were often replicated with little tailoring to the customer's circumstances.

Suitability Report Disclosure

4.110. The Suitability Report was a written record, compiled for the customer's benefit, of information relating to their circumstances and of Mr Morgan's Personal Recommendation (or the Personal Recommendation that he signed off as PTS) and the reasons supporting it. At a minimum, the advice he provided or reviewed and checked as PTS, on behalf of the firm was required to set out in the Suitability Report to the customer the following information:

(1) the customer's demands and needs;

(2) why the adviser had concluded that the Pension Transfer was suitable for the customer, having regard to the information provided by the customer; and

(3) an explanation of any possible disadvantages of the transaction for the customer.

4.111. In 17 out of 20 files reviewed by the Authority, the Suitability Report was not written in a way that was clear, fair and not misleading (Mr Morgan was the adviser on all of these files and the PTS who provided second-level review and check on the remaining file). For example:

(1) in purporting to explain why a recommendation to transfer out of a Defined Benefit Pension Scheme was suitable, generic standardised reasons were listed, that were not tailored to the customer, and were better described as features of the Proposed Arrangement rather than reasons for, or an analysis of, suitability. Statements such as *"you will release a higher tax free lump sum"* and *"you gain full control of the funds"* did not explain why

these features of the Proposed Arrangement, as opposed to the features of the Ceding Arrangement, best met the customer’s income needs in retirement;

(2) similarly, where disadvantages of transferring out of the Defined Benefit Pension Scheme were listed, the analysis was not sufficiently tailored to the individual customer, but instead included generic warnings such as the loss of guaranteed benefits or the fact that the adviser fee reduced the sum invested;

(3) the Suitability Reports included errors such as citing the wrong percentage investment; calculating the Critical Yield to the wrong age (resulting in a lower figure); stating the wrong Critical Yield; and referring to taking benefits *“early”* at age 60 when the Normal Retirement Date was age 60;

(4) mistakes were made that suggested that wording had been inappropriately lifted from other Suitability Reports. These statements were not simply numerical or typographical errors, they were important in communicating the reasons for recommending the Pension Transfer. However, the statements in the Suitability Reports were poorly expressed, such that they may have been difficult for the customer to understand;

(5) contradictory, misleading and confusing statements appeared in Suitability Reports. In the case of Customer L, statements were made which suggested an unachievable Critical Yield and that the customer would be *“better off remaining”* with BSPS. However, these statements were followed by a statement that the Critical Yield is *”less meaningful”* for the customer, with the recommendation then being to transfer out of the Defined Benefit Pension Scheme;

(6) in the case of Customer B, Mr Morgan initially advised the customer to remain in their DBPS. However, a few weeks later he then made a contradictory recommendation to the customer to transfer out of the DBPS. The second recommendation was made even though he had asked the customer to confirm their decision in writing, should they wish to proceed with a Pension Transfer despite his initial advice that the customer remain in the DBPS. Statements and projections in the Suitability Report also assumed that the total value of the DBPS would be transferred into the Proposed Arrangement and failed to account for the fact that the customer was planning to take the maximum tax-free pension commencement lump

sum on retirement, thereby reducing the amount to be invested in the Proposed Arrangement;

(7) Suitability Reports contained confusing wording regarding matching the customer's attitude to risk to the Proposed Arrangement. One customer who was a member of two different Defined Benefit Pension Schemes was advised by Mr Morgan not to transfer out of one of the two Defined Benefit Pension Schemes on the basis that a Critical Yield figure of 6.74% was too *"high"*. However, he advised the same customer to transfer out of their other Defined Benefit Pension Scheme despite the calculated Critical Yield of 9.03% being even higher; and

(8) in the case of Customer J the key features illustration on file and the Suitability Report referred to a different Proposed Arrangement to the actual scheme that the bulk of the customer's Defined Benefit Pension was ultimately transferred into.

4.112. Further, two customer Suitability Reports post-dated the date that Defined Benefit Pension Scheme discharge forms were submitted by Mr Morgan on behalf of the customers. This meant that these customers were not afforded the opportunity to consider the contents of the Suitability Report prepared by Mr Morgan prior to the Pension Transfer process being initiated.

Transfer Analysis Disclosure

4.113. The Transfer Value Analysis in the TVAS documents and fund illustrations did not include sufficient information to enable customers to make informed decisions regarding whether to transfer out of their Defined Benefit Pension Scheme into the Proposed Arrangement.

4.114. Frequently, the transfer analysis provided by Mr Morgan contained omissions or errors, including not taking account of tax-free cash being taken from the outset and Critical Yields being calculated to the wrong retirement date.

4.115. As part of the advice provided to customers, Mr Morgan did not take steps to ensure the customer understood the comparison between the benefits likely to be paid and options available under the Ceding Scheme and the benefits afforded by the Proposed Arrangement. This was particularly significant for inexperienced customers. In the files reviewed by the Authority there was little explanation in the TVAS or Suitability Report regarding how achievable the Critical Yield would be, given the customer's attitude to risk.

4.116. Often, the customer had a cautious attitude to risk such that the Critical Yield figures were unlikely to be reached, but Mr Morgan did not clearly explain this to the customer. Mr Morgan did not explain factors affecting the Critical Yield calculations (such as reductions applied due to scheme underfunding) to the customer. Factors in his Transfer Value Analysis which did not support transfer were also not explained to the customer.

4.117. Sustainability assessments were absent in circumstances where they may have been particularly important, and no discussion was included of what impact a likely change in circumstances would have upon the figures. There was also an instance where the TVAS for a customer in their mid-50s showed that were they to transfer to the Proposed Arrangement, their pension could run out by the time they reached their late 70s. However, this does not appear to have been appropriately considered by Mr Morgan when providing his advice.

4.118. At the time of receiving advice from Mr Morgan, Customer B was almost 50, had a dependent child with long-term care needs, was paying off a mortgage and had no significant savings. Based on the estimated transfer value, their Defined Benefit Pension was their most significant asset, and therefore critical to Customer B's quality of life in retirement. Customer B's attitude to risk was low. Their key objectives were to retire soon in order to care for their dependent child and also to leave a fund to safeguard the child's future upon their death.

4.119. Notwithstanding Customer B's clear objectives, Mr Morgan demonstrated a lack of competence and capability by setting out objectives in Customer B's Suitability Report that were generic and did not properly reflect their personal circumstances. The Suitability Report also did not explain how the transaction met Customer B's needs. The disadvantages of the transfer out of the Defined Benefit Pension Scheme that were listed were not tailored to reflect Customer B's situation, so as to put them in a sufficiently informed position. Further, the Suitability Report prepared by Mr Morgan was misleading because the Critical Yield had been calculated according to an incorrect retirement age and it was not explained that the required yield was likely to be unachievable. This was a very important risk that Mr Morgan should have highlighted and explained to Customer B, as they may have been left with insufficient funds during retirement.

5 FAILINGS

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

5.2. Based on the facts and matters above, the Authority finds that, by reason of the matters described in section 4 of this notice, Mr Morgan demonstrated a lack of competence and capability during the Relevant Period in respect of the Pension Transfer advice that he provided to customers or which he reviewed and checked as PTS, as well as in his performance of his CF1 (Director) function and from the 6 October 2016 his CF10 (Compliance Oversight) function. The Authority therefore also considers that he is not fit and proper.

Mr Morgan's role as CF30 (Customer) and PTS

5.3. The Authority considers that Mr Morgan demonstrated a lack of competence and capability when advising customers on Pension Transfers out of their Defined Benefit Pension Scheme, or reviewing and checking advice as a PTS. His failings meant that the Pension Transfer advice he provided, or checked as a PTS, did not comply with regulatory requirements and standards, which created a significant risk that his advice to transfer out of a customer's DBPS would not be suitable for them, as well as leading to the provision of unsuitable advice. In particular in a significant proportion of cases, Mr Morgan demonstrated a lack of competence and capability because he:

(1) failed to ensure that at the fact-finding stage he gathered and appropriately assessed the necessary information regarding a customer's financial situation, the Ceding Arrangement and the Proposed Arrangement;

(2) failed to challenge the stated preferences of the customer when making recommendations, without appropriate questioning or testing of their rationale and motivations;

(3) failed to properly assess, on the basis of the information obtained, or give due consideration to, whether the customer could financially bear the risks associated with the Pension Transfer;

(4) failed to adequately consider the customer's financial situation, retirement needs, attitude to risk and alternatives to transfer, when assessing whether it was suitable for them to transfer out of their Defined Benefit Pension Scheme;

(5) failed to properly assess whether the Pension Transfer that was recommended met the customer's investment objectives;

(6) failed to undertake adequate or suitable Pension Transfer Analysis to compare the benefits likely to be paid under the Ceding Arrangement with the benefits afforded by the Proposed Arrangement;

(7) failed to properly assess whether the customer had the necessary knowledge and experience to understand the risks involved in the recommended Pension Transfer and failed to give due consideration to the customer's lack of knowledge and experience in that context;

(8) failed to communicate with his customers in a way that was clear, fair and not misleading such that customers were not placed in an adequately informed position. In particular, in purporting to explain why a recommendation to transfer out of a Defined Benefit Pension Scheme was suitable, generic standardised reasons were listed, that were not sufficiently tailored to the customer. Suitability Reports nominally compiled for different customers were substantially identical in content. Mr Morgan's Suitability Reports included errors such as calculating the Critical Yield to the wrong age and using an incorrect Normal Retirement Date;

(9) failed to ensure that he provided suitable Pension Transfer advice to customers. The Authority's file review revealed that contradictory, misleading and confusing statements appeared in the Suitability Reports that he provided to customers. For example, a number of Suitability Reports indicated that, based on the Critical Yield figure, customers would be better off remaining in their Defined Benefit Pension Scheme. However, Mr Morgan then proceeded to discount the significance of the Critical Yield and recommend that the customer transfer out of their Defined Benefit Pension Scheme; and

(10) failed, in several instances, to provide transfer analysis that included sufficient information to enable customers to make sufficiently informed decisions regarding whether to transfer out of their Defined Benefit Pension Scheme. This included omissions or errors in the calculations contained in the Transfer Value Analysis, and a failure to adequately explain factors affecting Critical Yield figures and the implications of the Transfer Value Analysis.

5.4. The Authority considers that as a result, a significant number of customers received unsuitable Pension Transfer advice. As a consequence, they then made the irrevocable decision to proceed with a Pension Transfer when this was not in their best interests.

Mr Morgan's role as CF1 (Director)

5.5. The Authority also considers that Mr Morgan demonstrated a lack of competence and capability because he failed, in performing the function of CF1 (Director), to take the following reasonable steps to implement and operate adequate risk management systems in respect of the business of PMC for which he was responsible in that function. In particular he demonstrated a lack of competence and capability because he:

(1) failed to operate appropriate systems and controls to facilitate effective challenge and scrutiny of the reasons why PMC recommended almost all of its customers to transfer out of their Defined Benefit Pension during the Relevant Period; and

(2) failed to allocate additional and appropriate resources to respond to the significant increase in Defined Benefit Pension Scheme work, which was largely driven by the influx of British Steel Pension Scheme members seeking Pension Transfer advice, particularly during the second half of 2017.

Mr Morgan's role as CF10 (Compliance Oversight)

5.6. The Authority also considers that Mr Morgan demonstrated a lack of competence and capability in performing his CF10 (Compliance Oversight) role from 6 October 2016 to the end of the Relevant Period, because he failed to take reasonable steps to ensure the adequate monitoring and oversight of the Pension Transfer advice process through adequate routine compliance checking, including checking that files were compiled with sufficient care and precision and that all the necessary information was collected at the fact-find stage. In particular he demonstrated a lack of competence and capability because he:

(1) failed to ensure the adequate monitoring and oversight of the Pension Transfer advice process, including undertaking management information analysis and adequate monitoring of compliance;

(2) failed to ensure that documents to be issued to customers were drafted with sufficient care and precision so as to be free of serious and misleading

errors, resulting in the customer not being placed in a sufficiently informed position;

(3) failed to ensure that the steps in the Pension Transfer advice process were not bypassed or modified in such a way so as to risk the quality of the advice provided to customers; and

(4) failed to implement adequate systems and procedures to ensure that at the fact-finding stage advisers gathered all necessary information regarding the customer, including details regarding their financial situation, investment and retirement objectives and risk appetite.

Lack of competence and capability

5.7. The Authority considers that Mr Morgan has demonstrated a lack of competence and capability and therefore considers that Mr Morgan is not fit and proper to perform any Senior Management Function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm, or any function in relation to the regulated activity of advising on Pension Transfers and Pension Opt-outs carried on by an authorised person, exempt person or exempt professional firm.

6 SANCTION

6.1. Under section 56 of the Act, the Authority may make a prohibition order if it appears to it that an individual is not a fit and proper person to perform functions in relation to any regulated activity carried on an authorised person, exempt person or exempt professional firm. An individual who lacks the competence and capability to perform the relevant functions is not fit and proper. The Authority considers that Mr Morgan's conduct falls below the standard of competence and capability required under FIT 2.2 of the Authority's Handbook.

6.2. During the Relevant Period the roles of CF1 (Director) and CF10 (Compliance Oversight) of an authorised person were "significant influence" controlled functions. These are now controlled functions under the Senior Managers Regime. Given the failings set out above, the Authority considers that Mr Morgan is not a fit and proper person to perform any Senior Management Function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm because he lacks competence and capability. The Authority also considers that Mr Morgan is not fit and proper to perform any function in relation to the regulated activity of advising on Pension Transfers and

Pension Opt-outs carried on by an authorised person, exempt person and exempt professional firm.

6.3. The Authority therefore imposes the prohibition order on Mr Morgan because it is a necessary measure to further the Authority's objective of securing an appropriate degree of protection for consumers.

Withdrawal of Approval and Prohibition Order

6.4. The Authority has had regard to the guidance in Chapter 9 of EG in considering whether to withdraw Mr Morgan's approval to perform Senior Management Functions and whether to impose a prohibition order on him. The Authority has the power to prohibit individuals under section 56 of the Act.

6.5. The Authority hereby withdraws Mr Morgan's SMF3 (Executive Director), SMF16 (Compliance Oversight) Senior Management Functions at PMC because it is appropriate and proportionate to do so in all the circumstances. The Authority hereby prohibits Mr Morgan from performing the following functions because he is not a fit and proper person to perform such functions due to his lack of competence and capability:

(a) any Senior Management Function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm; and

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

7. PROCEDURAL MATTERS

7.1. This Notice is given to Mr Morgan under and in accordance with section 390 of the Act. This Notice is being given to PMC as an interested party in the withdrawal of Mr Morgan's approval.

7.2. The following statutory rights are important.

Decision maker

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

Publicity

7.4. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this notice relates. Under those provisions, the Authority must publish such information about the matter to which this notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

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

Authority contacts

7.6. For more information concerning this matter generally, contact Kingsley Moore at the Authority (direct line: 020 7066 0401 /email: kingsley.moore2@fca.org.uk).

Nicholas Hills

Head of Department

Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX A

RELEVANT STATUTORY AND REGULATORY PROVISIONS

Relevant statutory provisions

The Authority's operational objectives

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

Section 56 of the Act

2. Section 56 of the Act provides that the Authority may make an order prohibiting an individual from performing a specified function, any function falling within a specified description or any function, if it appears to the Authority that that individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, a person who is an exempt person in relation to that activity 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

Section 63 of the Act

3. Section 63 of the Act provides that the Authority may withdraw an approval under section 59 given by the Authority in relation to the performance by a person of a function if the Authority considers that the person is not a fit and proper person to perform the function.

RELEVANT REGULATORY PROVISIONS

The Authority's Handbook of Rules and Guidance

The Fit and Proper Test for Approved Persons

4. The part of the Authority's Handbook entitled "The Fit and Proper Test for Approved Persons" ("FIT") sets out the criteria that the Authority will consider when assessing the fitness and propriety of a candidate for a controlled

function. FIT is also relevant in assessing the continuing fitness and propriety of an approved person.

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. The most important considerations will be the person's honesty, integrity and reputation, competence and capability and financial soundness.

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

Enforcement Guide ("EG")

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

7. EG 9.2.2 states that the Authority has the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. Depending on the circumstances of each case, the Authority may seek to prohibit an individual from performing any class of function in relation to any class of regulated activity, or it may limit the prohibition order to specific functions in relation to specific regulated activities. The Authority may also make an order prohibiting an individual from being employed by a particular firm, type of firm or any firm.

8. EG 9.2.3 states that the scope of the prohibition order will depend on the range of functions which the individual concerned performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of risk which he poses to consumers or the market generally. At EG 9.3.5(4) the Authority gives a serious lack of competence as an example of the type of behaviour which has previously resulted in the Authority deciding to issue a prohibition order.

9. EG sets out the Authority's approach to taking disciplinary action. The Authority's approach to financial penalties is set out in Chapter 7 of EG, which can be accessed here:

https://www.handbook.fca.org.uk/handbook/EG/7/?view=chapter

Decision Procedures and Penalties Manual ("DEPP")

10. Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's policy for imposing a financial penalty. The Authority applies a five-

step framework to determine the appropriate level of financial penalty. DEPP 6.5B sets out the details of the five-step framework that applies to financial penalties imposed on individuals in non-market abuse cases, which can be accessed here:

https://www.handbook.fca.org.uk/handbook/DEPP/6/5B.htmln