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**FIRST SUPERVISORY NOTICE**

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**To:** **David Stock & Co Limited**

**Reference Number:** **121754**

**Address:** **73 Bridge Street  
Newport  
Gwent  
NP20 4AQ  
United Kingdom**

**Date:** **17 March 2023**

**1 ACTION**

1.1 For the reasons given in this First Supervisory Notice, and pursuant to section 55L(3)(a) of the Financial Services and Markets Act 2000 ("the Act"), the Financial Conduct Authority ("the Authority") has decided to impose the following requirements ("the Requirements") on David Stock & Co Limited ("the Firm") with immediate effect:

- 1) Where consumers have accepted unsolicited settlement offers prior to the effective date of the Redress Scheme, the Firm must follow in full all the same processes set out in the Redress Scheme that they must for consumers who have not, prior to the effective date of the Redress Scheme, accepted any offer of redress in connection with BSPS pension transfers, including (but not limited to):
  - following all requirements in relation to reporting to and notification to the Authority;
  - observing all deadlines;

- sending all letters and conducting all communications required under the Redress Scheme in circumstances specified therein and following the provisions relating to communications with consumers and other firms;
  - following all information gathering requirements;
  - conducting case reviews using the process set out within the Redress Scheme;
  - following all supervision and delegation requirements;
  - complying with requests for information from the Authority (in the circumstances specified in the Redress Scheme); and
  - following all record-keeping requirements.
- 2) For any consumers who have accepted unsolicited settlement offers the Firm must by 28 March 2023 send a letter in the form at Annex B instead of the letter at CONRED 4 Annex 2 R Consumer within scope/confirming inclusion and any reference within the Redress Scheme to the letter at CONRED 4 Annex 2 R should be read as a reference to the letter at Annex B.
  - 3) If in carrying out requirement 1) the Firm calculates that the redress payable to a consumer is higher than the payment that consumer received pursuant to an unsolicited settlement offer, the Firm must offer the difference to the consumer using the process set out in CONRED 4.4.5R.
  - 4) If in carrying out requirement 1), the Firm calculates that the redress payable to a consumer is lower than the payment that consumer received pursuant to an unsolicited settlement offer, the Firm must not ask the consumer to repay the difference to the Firm.
  - 5) The Firm must not make any communication to a consumer which seeks to influence, for the benefit of the Firm, the outcome of requirement 1) or a consumer's decision to opt out in relation to requirement 2), either by seeking to influence the content of information provided by the consumer in response to the Firm's requests made when following the processes set out in the Redress Scheme, or otherwise. For the avoidance of doubt, this also applies such that the Firm must not allow any other parties to make any communications to consumers in this way.
  - 6) The Firm must secure all books and records and preserve information and systems that relate to regulated activities carried on by it, and must retain these in a form and at a location (to be notified to the Authority in writing by **31 March 2023**. such that they can be provided to the Authority, or to a person named by the Authority, promptly upon request.

1.2 These Requirements shall take immediate effect and remain in force unless and until varied or cancelled by the Authority (either on the application of the Firm or of the Authority's own volition).

## **2 REASONS FOR ACTION**

### **Summary**

- 2.1 In February 2023, the Firm made unsolicited settlement offers of £50 to 54 out of 112 (48%) of its clients who were BPS members. As at the date of this application, the Authority is aware that three (5%) of the BPS members that the offer was made to have accepted the Firm's offer.
- 2.2 The Authority has concluded, on the basis of the facts and matters described below that, in respect of the Firm, it is necessary to exercise its power under section 55L(3)(a) of the Act to impose the Requirements on the Firm because it is failing, or is likely to fail, to satisfy the Threshold Conditions and it is desirable in order to advance one or more of the Authority's operational objectives, which includes securing an appropriate degree of protection for consumers.
- 2.3 The Authority has serious concerns relating to the Firm's conduct in respect of the Redress Scheme because:

The Firm appears to have provided misleading information to the Authority indicating that it had not made settlement offers to customers when it had. The Firm has also failed to fully respond to the Authority's requests for documents and information. Supervision is therefore concerned that the Firm may not be willing or able to provide full and accurate information to the Authority. The Firm's failures have impeded Supervision's ability to adequately assess whether the Firm has treated customers fairly; and

The Firm represents a serious ongoing risk to consumers because of the evidence that it may be in breach of Principle 6 of the Authority's Principles for Businesses, requiring it to pay due regard to its customers' interests and to treat them fairly. Specifically, the offers of £50 are significantly misaligned with estimates used in sensitivity analysis for our cost benefit analysis that accompanies PS22/14 of average calculated redress of £45,000 for former BPS members who received unsuitable pension transfer advice based on estimated average financial loss of 12% of the average transfer value of £374,00.00. The Authority considers that this indicates a risk that the approach taken by the Firm in calculating the settlement offers is flawed and failed to treat customers fairly. Further, the Authority is unable to assess whether the Firm has communicated the offers to customers in a way that is clear, fair and not misleading because the Firm has failed to respond to the Authority's requests for information and documents adequately or in some cases at all.

- 2.4 These Requirements shall take immediate effect and remain in force unless and until varied or cancelled by the Authority (either on the application of the Firm or of the Authority's own volition).

### **3 DEFINITIONS**

3.1 The definitions below are used in this First Supervisory Notice:

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

"the Authority" means the Financial Conduct Authority;

"BSPS" means the British Steel Pension Scheme;

"DB" means Defined Benefit;

"DC" means Defined Contribution";

"the Firm" means David Stock & Co Limited Financial Associates Limited;

"Handbook" means the Authority's online handbook of rules and guidance (as in force from time to time);

"Principles" means the Authority's Principles for Businesses which are general statements of the fundamental obligations of firms under the regulatory system;

"the Redress Scheme" means the consumer redress scheme created by CONRED 4 (British Steel Consumer Redress Scheme);

"Requirements" means the terms imposed on the Firm by this First Supervisory Notice as outline in section 1 above; and

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

"Unsolicited settlement offers" means settlement offers to consumers who have not made a complaint purporting to be in full and final settlement of claims in connection with BSPS pension transfers.

### **4 FACTS AND MATTERS**

#### **Background**

##### *The Firm*

4.1 The Firm is an advisory firm based in Newport, Wales with permissions to advise on and arrange deals in investments, pensions and mortgages.

4.2 The Firm is in-scope of the Redress Scheme, as it provided defined benefit pension transfer advice to 112 BSPS members between 26 May 2016 and 29 March 2018

##### *BSPS*

- 4.3 The BSPS was a defined benefit (“DB”) pension scheme sponsored by Tata Steel. A DB scheme is a pension arrangement which typically pays safeguarded benefits to its members in the form of a guaranteed income for life once they retire. The monetary amount a member will receive depends on the terms of each DB scheme.
- 4.4 A defined contribution (“DC”) scheme is a pension arrangement by which members invest a “pot” of money in a selection of assets. The benefits provided depend on performance of the investments over time. DC schemes are typically more flexible in how benefits may be drawn, but do not normally provide any safeguarded or guaranteed income.
- 4.5 A DB transfer is the process by which a member of a DB scheme transfers the capitalised value of their pension benefits out of a DB scheme and into a DC scheme. The Authority regulates the provision of DB transfer advice, and rules related to this are found with the Authority Handbook, predominantly in the Conduct of Business Sourcebook (“COBS”).
- 4.6 In March 2016, Tata Steel announced publicly that it was considering options for restructuring its business and that it would be unable to continue funding the BSPS. In May 2017, Tata Steel agreed to establish a new DB scheme for its employees to replace BSPS. This new DB scheme became known as “New BSPS” or “BSPS2”. BPS members were given a choice between remaining in the existing scheme, which would move into a Pension Protection Fund assessment period, with an associated reduction in pension benefits entitlements, or transferring their accrued rights into the BPS2 scheme, with reduced increases in the future. Some BPS members instead opted for a DB transfer and transferred the capitalised value of their pension benefits out of the BPS and into a DC scheme.
- 4.7 The Authority’s review of files from firms that advised BPS members found that in 46% of cases the recommendation was unsuitable. The Authority has used estimates in the sensitivity analysis in their cost benefit analysis accompanying PS22/14 that the average amount lost per consumer who received unsuitable advice is about £45,000, based on estimated average financial loss being 12% of the average transfer value of £374,00.00.

#### *Redress Scheme*

- 4.8 On 28 November 2022, the Authority published the final rules for the Redress Scheme requiring firms to assess any advice they gave to BPS members to transfer out and to pay redress if the advice was unsuitable and caused consumer loss. The rules in the Consumer Redress Scheme Sourcebook (CONRED 4) (British Steel Redress Scheme) came into effect on 28 February 2023.
- 4.9 CONRED 4.2.2R will require firms to identify all Redress Scheme cases. A consumer will not be considered within the Redress Scheme where “*a consumer has, prior to the scheme effective start date [28 February 2023] accepted an offer of redress from the firm or other person in full and final settlement of all potential claims arising out of*” advice which a firm gave in relation to a BPS pension transfer during the relevant period (CONRED 4.2.2R(1) and (5)).

#### *Unsolicited settlement offers*

4.10 On 26 January 2023, the Authority published a news story expressing concern that some firms were sending unsolicited offers prior to the start of the Redress Scheme. The statement noted that the Authority believed that *"the actions by the firms may be deliberate attempt to exclude former members from participating in the scheme, binding them to receiving less money than they might otherwise be entitled"*. The Authority's expectations for firms were set out: *"we expect firms to treat customers fairly and to clearly explain the implications of accepting an offer before the scheme starts"*.

4.11 On 7 February 2023, the Authority published a further news story in relation to offers made to BSPS members ahead of the Redress Scheme.<sup>1</sup> It stated that the Authority had now identified 15 firms which had engaged in making the unsolicited offers. The Authority set out its expectations that firms:

- *"Withdraw any existing unsolicited settlement offers pending any consumer agreement;*
- *"Stop making further unsolicited offers to former BSPS members who have not made complaints;*
- *"Treat any pending unsolicited settlement offers as withdrawn."*

4.12 The potential implications for BSPS members of accepting an offer prior to the commencement of the Redress Scheme is that they may be excluded from the scheme and may not receive appropriate redress.

#### **Failings and risks identified**

4.13 On 20 January 2023, the Authority sent the Firm a section 165 information request seeking information regarding the Firm's preparation for the Redress Scheme, including details of offers of settlements made to BSPS customers who had not complained to the Firm.

4.14 On 3 February 2023, the Firm responded stating that *"The firm is taking steps to complete the redress calculations of all cases, both those which would fall within the proposed scheme and those which sit within FOS. Where we have calculated redress, we will make offers of settlement and remind customers of their duty to mitigate and loss."*

4.15 On 8 February 2023, the Authority emailed the Firm noting that no offers of settlements had been made and directed them to the Authority's announcements of 26 January 2023 and 7 February 2023 that outlines the Authority's expectations that firms would not provide unsolicited offers to former BSPS members who had not made complaints. The Firm was asked to provide an undertaking; *"to withdraw any existing settlement offers currently pending any consumer agreement, to cease making any further offers to former BSPS members who have not made complaints, and to treat any pending settlement offers as withdrawn."*

4.16 On the same day, the Firm responded to the Authority stating that:

*"Our lawyers will be writing to your legal team today raising a number of important*

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<sup>1</sup> [FCA news story dated 7 February 2023](#).

*queries with you about the S165 requests and your requests for undertakings / VREQs in relation to the settlements being offered by firms."*

- 4.17 On 13 February 2023, the Firm sent an email to the Authority attaching a SUP 15 notification, signed by the SMF3 (Executive Director) on 1 February 2023, stating that it proposed to make offers to an enclosed list of BSPS members and stated that a settlement would allow the members to replicate the Redress Scheme benefits and would suffer no prejudice in doing so. The notification stated that the Firm's calculations "*have been generated by specialist actuarial software which reflects the PS22/13 guidance for redress.*"
- 4.18 On 15 February 2023, the Authority again invited the Firm to a formal undertaking by inviting the Firm to consider applying for a voluntary requirement and asking the Firm to respond by the deadline of 17 February 2023, which the Firm declined on 17 February 2023.
- 4.19 On 23 February 2023, a meeting between the Authority and the Firm took place to discuss the SUP 15 notification submitted by the Firm in more detail and to obtain further information on the intention to make unsolicited settlement offers. The Firm told the Authority:
- 1) It had not made any unsolicited settlement offers to former BSPS members and it did not intend on either.
  - 2) The SUP 15 notification was missing information due to an oversight by the Executive Director and Compliance Consultant.
  - 3) The Executive Director could not recall seeing the SUP 15 notification before signing it and submitting it to the Authority.

When asked by the Authority for confirmation from the Executive Director of the Firm that no unsolicited settlement offers to former BSPS members had been made and that the Firm did not intend on making unsolicited settlement offers, the Executive Director could not provide this as they wanted to seek advice from their legal representative, pension transfer specialist and administration manager at the Firm. The Authority asked that the Firm confirm the position in writing by 12 noon on 24 February 2023.

- 4.20 On 24 February 2023, the Executive Director of the Firm emailed the Authority to explain they were unable to provide the confirmation as they had not spoken with the administration manager or the pension transfer specialist. The Firm asked for an extension until the end of the day on 27 February 2023.
- 4.21 On 27 February 2023 at 12:24pm the Administration Manager at the Firm, on behalf of the Executive Director, emailed the Authority to explain that three unsolicited offers of £50 had been made to former members of BSPS who were advised to transfer. It was not clear if these three former members had accepted the offer at this stage. In response, the Authority issued the Firm a section 165 information request (with a deadline to respond of 1 March 2023) and an invitation to a Voluntary Requirement, in light of the offers they have made, to sign and return by 4.45pm on 27 February 2023.

- 4.22 The Firm's legal representative, responded to the Authority stating "*nothing will happen of any note in the interim*" with reference to the Executive Director of the Firm being away from the office.
- 4.23 Between 27 February 2023 to 3 March 2023, the Firm's legal representative continued to respond to our emails.
- 4.24 On 3 March 2023, the Firm's legal representative emailed the Authority, attaching an Excel spreadsheet, with some but not all the information requested under s.165 of the Act. The information showed the Firm had made an unsolicited settlement offer to 44 customers with 3 customers having already accepted the offer and been paid. This contradicted the Firm's explanation during the call on 23 February 2023 and via email from the Administration Manager on 27 February 2023. The Authority responded to highlight the concerns with the contradicting information received to-date and asked the Firm to respond with the information that was still outstanding from the Authority's information request.
- 4.25 On 6 March 2023, the Firm and its legal representative emailed the Authority that the outstanding information was not required as all the remaining customers would now fall within the Redress Scheme. The Firm and its legal representative also provided an update on the complaints with the Financial Ombudsman Service (FOS).
- 4.26 The Firm stated in its email: "*I am not sure whether you have fully understood our intentions, or if I have not made it clear enough, but the 3 clients who have been paid a gesture of goodwill **will be** included into the new redress schemes from April 2023*".
- 4.27 The Authority responded to ask the Firm why it hadn't applied for a VREQ as a VREQ would only serve to formalise the actions that the Firm stated it was already taking.
- 4.28 On 7 March 2023 at 1:09pm, the Firm emailed the Authority stating that in its view the settled cases are excluded from the Redress Scheme, that the Firm does not believe the settlements they have entered into have been misleading, and to decline our invitation to consider applying for a VREQ.

## 5 CONCLUSION

- 5.1 The regulatory provisions relevant to this First Supervisory Notice are set out in Annex A.

### **Analysis of failings and risks**

#### Effective Supervision Threshold Condition

- 5.2 The Authority considers that the Firm is failing, or is likely to fail, to satisfy the Effective Supervision Threshold Condition. The Firm has demonstrated an ongoing pattern of poor engagement with the Authority which has impeded its ability to effectively supervise the Firm. Specifically:



- 1) The Firm appears to have provided misleading information to the Authority on 23 February 2023 and 27 February 2023 indicating that it had made settlement offers to only 3 customers when it appears that the Firm had made offers to 54 customers. The Firm has not provided an explanation for providing information that the Authority considers to be misleading; and
- 2) The Firm has failed without reasonable excuse to fully respond to the Authority's section 165 request letter dated 20 January 2023 and the email requesting information and documents dated 27 February 2023.

- 5.3 The Authority is therefore concerned that the Firm may not be willing or able to provide full and accurate information to the Authority.
- 5.4 The Firm's failures have impeded the Authority's ability to adequately assess whether the Firm has treated customers fairly. In particular, the Authority has not been able to assess what information the Firm gave to customers with its settlement offers and therefore whether those communications were clear, fair and not misleading.

Consumer protection operational objective

- 5.5 The Authority's operational objective of consumer protection requires the Authority to ensure an appropriate degree of protection for consumers (section 1C(1) of the Act). The Authority considers that the Firm represents a serious ongoing risk to consumers because of the evidence that it may be in breach of Principle 6 of the Authority's Principles for Businesses, requiring it to pay due regard to its customers' interests and to treat them fairly. Specifically:
- 3) Although it is correct to state that the Firm has the legal right to enter into settlement agreements with consumers, in doing so in the Authority's view the Firm must have due regard to customers' interests and treat them fairly.
  - 4) The unsolicited settlement offers to 54 customers of £50 are significantly misaligned with estimates used in sensitivity analysis in the cost benefit analysis accompanying PS22/14 that average calculated redress of £45,000 for former BPS members who received unsuitable pension transfer advice based on estimated average financial loss being 12% of the average transfer value of £374,00.00. Even allowing for a reasonable variation within settlement figures, it is unlikely that there should be such a significant disparity. Further, that the offers were all for the same amount indicates that the Firm has not considered the likely redress owed to customers on a case-by-case basis. Rather, this indicates that the approach taken by the Firm in calculating the settlement offers is likely to be flawed and therefore fails to treat customers fairly.
- 5.6 The Authority has concluded, in light of the matters set out above, that it is necessary to exercise its own-initiative power under section 55L(3)(a) of the Act by imposing the Requirements in order to protect the interests of consumers.

- 5.7 The Authority considers that the Requirements are a proportionate and appropriate means to address the current and immediate risks, and are desirable in order to advance the Authority's operational objective of consumer protection.

### **Timing and duration of the Requirements**

- 5.8 It is necessary to impose the Requirements on an urgent basis to take immediate effect given the seriousness of the risks and the need to protect consumers.
- 5.9 The Authority considers that it is necessary for the Requirements to remain in place indefinitely.

## **6 PROCEDURAL MATTERS**

### **Decision-maker**

- 6.1 The decision which gave rise to the obligation to give this First Supervisory Notice was made by an Authority staff member under executive procedures according to DEPP 2.5.7G and DEPP 4.1.7G.
- 6.2 This First Supervisory Notice is given under section 55Y(4) and in accordance with section 55Y(5) of the Act.
- 6.3 The following statutory rights are important.

### **Representations**

- 6.4 The Firm has the right to make written representations to the Authority (whether or not it refers this matter to the Tribunal). The Firm may also request to make oral representations but the Authority will only consider this in exceptional circumstances according to DEPP 2.3.1AG. The deadline for providing written representations and notifying the Authority that the Firm wishes to make oral representations is 17 March 2023 or such later date as may be permitted by the Authority. Any notification or representations should be sent to the SPC Decision Making Secretariat ([SPCDecisionMakingSecretariat@fca.org.uk](mailto:SPCDecisionMakingSecretariat@fca.org.uk)).

### **The Tribunal**

- 6.5 The Firm has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. The Tax and Chancery Chamber is part of the Tribunal which, amongst other things, hears references arising from decisions of the Authority. Under paragraph 2(2) of Schedule 3 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Firm has 28 days from the date on which this First Supervisory Notice is given to it to refer the matter to the Tribunal.
- 6.6 A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by or on behalf of the Firm and filed with a copy of this First Supervisory Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, 5<sup>th</sup> Floor, Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9730; email:

[uttc@hmcts.gsi.gov.uk](mailto:uttc@hmcts.gsi.gov.uk)).

- 6.7 Further information on the Tribunal, including guidance and the relevant forms to complete, can be found on the HM Courts and Tribunal Service website: <http://www.justice.gov.uk/forms/hmcts/tax-and-chancery-upper-tribunal>
- 6.8 The Firm should note that a copy of the reference notice (Form FTC3) must also be sent to the Authority at the same time as a reference is filed with the Tribunal. A copy of the reference notice should be sent to the SPC Decision Making Secretariat ([SPCDecisionMakingSecretariat@fca.org.uk](mailto:SPCDecisionMakingSecretariat@fca.org.uk)).

### **Confidentiality and publicity**

- 6.9 The Firm should note that this First Supervisory Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining legal advice on its contents).
- 6.10 The Firm should note that section 391(5) of the Act requires the Authority, when the First Supervisory Notice takes effect, to publish such information about the matter to which the notice relates as it considers appropriate.

### **Authority contacts**

- 6.11 Any questions regarding this matter generally or the executive procedures decision-making process should be directed to the SPC Decision Making Secretariat ([SPCDecisionMakingSecretariat@fca.org.uk](mailto:SPCDecisionMakingSecretariat@fca.org.uk)).

### **Decision made under Executive Procedures**

**Nick Hulme**  
**Head of Department, Consumer Investments**

## **Annex A**

### **RELEVANT STATUTORY PROVISIONS**

1. The Authority's operational objectives established in section 1B of the Act include securing an appropriate degree of protection for consumers, and protecting and enhancing the integrity of the UK financial system.
2. Section 55L of the Act allows the Authority to impose a new requirement on an authorised person if it appears to the Authority that the authorised person is failing, or likely to fail to satisfy the Threshold Conditions (section 55L(2)(a)), or it is desirable to exercise the power in order to advance one or more of the Authority's operational objectives (section 55L(2)(c)).
3. Section 55N of the Act allows a requirement to be imposed under section 55L of the Act so as to require the person concerned to take specified action (section 55N(1)(a)), or to refrain from taking specified action (section 55N(1)(b)).
4. Section 55P of the Act allows a requirement to be imposed under section 55L of the Act prohibiting the disposal of, or other dealing with, any of an authorised person's assets (whether in the UK or elsewhere), or restricting such disposals or dealings.
5. Section 55Y(3) of the Act allows a requirement to take effect immediately (or on a specified date) if the Authority, having regard to the ground on which it is exercising its own-initiative power, reasonably considers that it is necessary for the requirement to take effect immediately (or on that date).
6. Section 391 of the Act provides that:  
“[...]”
  - (5) When a supervisory notice takes effect, the Authority must publish such information about the matter to which the notice relates as it considers appropriate.
  - (6) But the Authority may not publish information under this section if in its opinion, publication of the information would, be unfair to the person with respect to whom the action was taken or proposed to be taken [or] prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.
  - (7) Information is to be published under this section in such manner as the Authority considers appropriate.”

### **RELEVANT REGULATORY PROVISIONS**

#### The Enforcement Guide

7. The Authority's approach in relation to its own-initiative powers is set out in Chapter 8 of the Enforcement Guide (EG), certain provisions of which are summarised below.
8. EG 8.1.1 reflects the provisions of section 55L of the Act by stating that the Authority may use its own-initiative power to impose requirements on an authorised person where,

amongst other factors, the person is failing or is likely to fail to satisfy the threshold conditions for which the Authority is responsible (EG 8.1.1(1)), or it is desirable to exercise the power in order to advance one or more of its operational objectives (EG 8.1.1(3)).

9. EG 8.2.1 states that when the Authority considers how it should deal with a concern about a firm, it will have regard to its statutory objectives and the range of regulatory tools that are available to it. It will also have regard to the principle that a restriction imposed on a firm should be proportionate to the objectives the Authority is seeking to achieve (EG 8.2.1(2)).
10. EG 8.2.3 states that in the course of its supervision and monitoring of a firm or as part of an enforcement action, the Authority may make it clear that it expects the firm to take certain steps to meet regulatory requirements. In the vast majority of cases the Authority will seek to agree with a firm those steps the firm must take to address the Authority's concerns. However, where the Authority considers it appropriate to do so, it will exercise its formal powers under section 55L of the Act to impose a requirement to ensure such requirements are met. This may include where, amongst other factors, the Authority has serious concerns about a firm, or about the way its business is being or has been conducted (EG 8.2.3(1)), or is concerned that the consequences of a firm not taking the desired steps may be serious (EG 8.2.3(2)).
11. EG 8.3.1 states that the Authority may impose a requirement so that it takes effect immediately or on a specified date if it reasonably considers it necessary for the requirement to take effect immediately (or on the date specified), having regard to the ground on which it is exercising its own-initiative powers.
12. EG 8.3.2 states that the Authority will consider exercising its own-initiative power as a matter of urgency where: 1) the information available to it indicates serious concerns about the firm or its business that need to be addressed immediately; and 2) circumstances indicate that it is appropriate to use statutory powers immediately to require and/or prohibit certain actions by the firm in order to ensure the firm addresses these concerns.
13. EG 8.3.3 states that it is not possible to provide an exhaustive list of the situations that will give rise to such serious concerns, but they are likely to include one or more of four listed characteristics, these include: 1) information indicating significant loss, risk of loss or other adverse effects for consumers, where action is necessary to protect their interests; 2) information indicating that a firm's conduct has put it at risk of being used for the purposes of financial crime, or of being otherwise involved in crime; 3) evidence that the firm has submitted to the Authority inaccurate or misleading information so that the Authority becomes seriously concerned about the firm's ability to meet its regulatory obligations; 4) circumstances suggesting a serious problem within a firm or with a firm's controllers that calls into question the firm's ability to continue to meet the threshold conditions.
14. EG 8.3.4 states that the Authority will consider the full circumstances of each case when it decides whether an imposition of a requirement is appropriate and sets out a non-exhaustive list of factors the Authority may consider.
15. EG 8.3.4(1) includes the extent of any loss, or risk of loss, or other adverse effect on consumers. The more serious the loss or potential loss or other adverse effect, the more

likely it is that the Authority's exercise of own-initiative powers will be appropriate, to protect the consumers' interests.

16. EG 8.3.4(7) includes the risk that the firm's conduct or business presents to the financial system and to confidence in the financial system.
17. EG 8.3.4(9) includes the impact that use of the Authority's own-initiative powers will have on the firm's business and on its customers. The Authority will need to be satisfied that the impact of any use of the own-initiative power is likely to be proportionate to the concerns being addressed, in the context of the overall aim of achieving its statutory objectives.

## **Annex B**

### **FORM OF LETTER TO SEND TO CONSUMERS IN ACCORDANCE WITH REQUIREMENT 2**

[To be sent on the Firm's letterhead]

***[Please delete or amend any drafting instructions in italics before sending]***

Rydym yn hapus i ddarparu copi o'r llythyr hwn yn y Gymraeg ar gais. Cysylltwch gyda ni ar [cymraeg@fca.org.uk](mailto:cymraeg@fca.org.uk) ac fe wnawn anfon copi atoch.

[Firm details]

[Date]

[Consumer details]

#### **British Steel consumer redress scheme**

#### **We will review the advice we gave you to transfer out of the British Steel Pension Scheme**

Dear [*Insert name*],

[If applicable: You were introduced to our firm by [insert name of introducer firm] for advice about your British Steel Pension Scheme benefits]

**You could be owed money for the advice we gave you to transfer out of the British Steel Pension Scheme (BSPS). The FCA requires all firms who advised BSPS members to transfer to be part of a consumer redress scheme.**

**We will review whether our advice was unsuitable and let you know the result by [*insert day date month year*]. You do not have to do anything unless we need more information from you to complete our review. We will contact you if this is the case.**

**If you do not want us to review the advice you were given, please complete the enclosed form and return it to us by [*insert day date month year*].**

The Financial Conduct Authority (FCA) has gathered evidence that suggests nearly half of the advice given to people to transfer out of the BSPS was unsuitable. Unsuitable advice is advice that was not in line with FCA requirements.

You accepted our offer dated [date]. The FCA has asked us to follow the same processes set out in the British Steel Consumer Redress scheme in full as we must for those who have not accepted an offer. We will therefore review the advice we gave you to decide if it was unsuitable.

If we find that we gave you unsuitable advice, we will ask you for some information to help us check if you are owed money. We will do this by calculating if our advice caused you a financial loss. If our advice did cause you a loss that is higher than the amount that we have already

paid you, we will be required to offer you an additional payment. The payment will aim to put you in the position you would have been in if we had given you suitable advice. **Whatever the result of our review, you will not need to pay anything.**

You do not need to do anything unless we ask you for information to help us complete our review. We will contact you if this is the case. We will tell you the result of our review by [*insert day date month year*].

You do not need to use a claims management company as it will not affect our review and, if you do, they will charge you for the service.

If you **do not** want us to review the advice we gave, please let us know by completing the enclosed form and returning it to us by [*insert day date month year*]. If you opt-out, you may end up with less money during your retirement than you should have had.

You can find out more about the BSPS consumer redress scheme at [www.fca.org.uk/bsps](http://www.fca.org.uk/bsps). If you want to contact the FCA, you can:

- call its Consumer Helpline on 0800 098 4100; or
- email [consumer.enquiries@fca.org.uk](mailto:consumer.enquiries@fca.org.uk).

If you would like to contact the FCA using next generation text relay, please call on (18001) 0207 066 1000.

If you have any questions about our review, you can phone or email us [*insert contact details*]. We are available between [*insert contact hours*].

Yours sincerely,

<signature>

<name of adviser or customer service>

**Opting out of the review of the advice given to you**

[I/We] have enclosed 2 copies of this letter.

If you DO NOT want us to review our advice to transfer out of the BSPS:

1. Tick the box below on 1 copy of this letter; and
2. Send this letter to [me/us] by [date].

CONFIRMATION THAT I DO NOT WANT MY ADVICE REVIEWED

I do not want you to review the advice you gave me to transfer out of the BSPS to see if I am entitled to a payment.

Please be aware that if you decide you DO NOT want us to review your advice, you could



**lose out on a payment and may end up with less money during your retirement than you should have had.**