

**SVS Securities Plc has the right to refer this Notice to the Upper Tribunal to determine the reference by either dismissing it; or remitting the matter to the Authority with a direction to reconsider and reach a decision in accordance with the findings of the Tribunal.**

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## **FIRST SUPERVISORY NOTICE**

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**To: SVS Securities Plc**

**Address: 4<sup>th</sup> Floor  
Princes Court  
7 Princes Street  
London  
EC2R 8AQ**

**FRN: 220929**

**Date: 2 August 2019**

### **1. ACTION**

- 1.1 For the reasons given in this Notice, and pursuant to section 55L of the Act, the Authority has decided to impose the requirements set out at paragraphs 1.2 to 1.15 below ("the Requirements") on the Part 4A permission of SVS, with immediate effect.
- 1.2 SVS (whether directly or through its agents) must not, without the prior written consent of the Authority, carry out any regulated activities save that it may carry out the activity of safeguarding and administering custody assets, only to the extent required to facilitate the movement of client money and custody assets as permitted in paragraph 1.10.
- 1.3 SVS must immediately, and in any event by no later than 5pm on 5 August 2019, close all open FX positions held by it, whether on its own account or on account of its clients and require any monies held by third parties in connection with SVS's FX trading activities to be returned to SVS.

- 1.4 By 5pm on 5 August 2019, SVS must notify in writing:
- a) all its Clients;
  - b) all financial advisers which it knows or believes act as agents for its Clients;
  - c) all platforms which SVS uses to manage or trade assets;
  - d) the custodians of all assets managed by SVS, and
  - e) the sub-custodians of all assets held by SVS,
- of the terms and effects of these Requirements.
- 1.5 By 5pm on 5 August 2019, SVS must publish a notice in a prominent place on all of its websites setting out the terms and effects of these Requirements.
- 1.6 As soon as practicable, and in advance of making the notifications in paragraph 1.4 and paragraph 1.5, SVS must agree the wording of these notifications with the Authority.
- 1.7 Once the notifications referred to in paragraph 1.4 have been made, SVS must provide to the Authority:
- a) copies of the template notification sent to all Clients, financial advisers, platforms, custodians and the fund manager;
  - b) a list of all parties, with their contact details, to whom notifications have been sent pursuant to paragraph 1.4; and
  - c) confirmation that, to the best of its knowledge, SVS has sent notifications pursuant to paragraph 1.4 to all relevant parties.
- 1.8 SVS must secure all books and records and preserve information and systems relating 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 no later than 7 days after the coming into effect of these Requirements, such that they can be provided to the Authority, or to a person named by the Authority, promptly on its request.
- 1.9 SVS must not accept any new client money or new custody assets, whether from existing or new clients, in any of its business areas.
- 1.10 Paragraph 1.9 above does not apply to the acceptance of new monies or custody assets from existing clients and/or third parties by SVS as a result of or in relation to the following:
- a) receipt of dividends or coupons;
  - b) rights issues;
  - c) corporate actions including maturing bonds; and
  - d) settlement of trades instructed but not yet settled as at the date of the Requirements.

- 1.11 SVS must not, without the prior written consent of the Authority, and save as provided for in paragraph 1.12 below, in any way dispose of, withdraw, transfer, deal with or diminish the value of any of its own assets, and any client money and custody assets it holds for clients (whether in the United Kingdom or elsewhere). For the avoidance of doubt, this requirement includes any custodian accounts, client transaction accounts or any other account operated by or held with third parties on SVS's behalf.
- 1.12 Paragraph 1.11 does not apply to:
- a) monetary payments made by SVS of its own monies, in the ordinary course of business, amounting to no more than £5,000 whether as a single transaction or as a combination of related transactions; or
  - b) payment of fees and disbursements to Ashurst LLP and Leonard Curtis in relation to their assistance to SVS in relation to this Notice.
- 1.13 For the avoidance of doubt paragraphs 1.11 and 1.12 above are an assets requirement within the meaning of section 55P(4)(a) of the Act.
- 1.14 A CF1 of SVS Securities Plc shall send to the Authority by email by 12 noon every day, until such time as it is notified otherwise in writing by the Authority:
- a) written confirmation that SVS Securities Plc is in compliance with these Requirements;
  - b) daily bank statements for all SVS firm and client bank accounts; and
  - c) daily account statements from all custodians or sub-custodians holding custody assets on behalf of SVS.
- 1.15 The CF10A of SVS shall send to the Authority by email each Friday by 12 noon as set out below, until such time as it is notified otherwise in writing by the Authority:
- a) weekly client money reconciliations, including any details of client monies held as prudent segregation; and
  - b) on the first Friday of each calendar month, the custody assets reconciliations.
- 1.16 The Requirements, which take immediate effect, expand the voluntary requirements imposed on SVS' Part 4A permission on 26 July 2019, following the granting by the Authority of an application by SVS pursuant to section 55L(5)(a) of the Act ("the Voluntary Requirements") set out at Annex B.
- 1.17 Whereas by the Voluntary Requirements SVS agreed to cease all regulated activities in relation to its Discretionary Fund Management Business and not to accept any new clients into, or invest in any fixed income products in, any of its other business areas, the Requirements imposed by this Notice require SVS to cease all regulated activities across all its business areas, save where expressly stated above, in relation to existing as well as new clients and in relation to all products.

## **2. REASONS FOR ACTION**

### **Summary**

- 2.1 On the basis of the facts and matters described below, the Authority considers that the imposition of the requirements set out above is necessary because:
- a) SVS is failing to satisfy the Threshold Conditions for which the Authority is responsible; and
  - b) it is desirable in order to advance the Authority's consumer protection and integrity objective.
- 2.2 In particular, it appears to the Authority, on the basis of the facts and matters set out in this Notice, that SVS is failing to satisfy: (a) the appropriate resources Threshold Condition because they appear to lack the necessary financial and non-financial resources; and (b) the suitability Threshold Condition.
- 2.3 The Authority has also concluded, on the basis of the facts and matters set out in this Notice that, the exercise of the power to impose the Requirements is desirable in order to advance the Authority's operational objective of consumer protection (section 1C of the Act) in order to ensure an appropriate degree of protection for consumers, and the Authority's operational objective of integrity (section 1D) in order to protect and enhance the integrity of the UK financial system.
- 2.4 The Authority considers that SVS has breached a number of the Principles for Businesses (PRIN) and a number of specific rules in the Authority's Handbook, including repeated serious breaches of the rules relating to conflicts of interest. Several members of SVS's current senior management appear to the Authority to have been closely involved in some of the conduct which has resulted in these breaches. As a result, and given the Authority's serious concerns over the integrity of certain SVS directors, and the general lack of proper governance or effective controls at SVS, the Authority considers that SVS is not currently satisfying the Threshold Conditions for Suitability and Appropriate non-financial resources.
- 2.5 The Authority is concerned that SVS is conducting its business in a way that creates an ongoing risk to consumers. Further, the scale of the uncertainty over investments promoted and/or managed by SVS creates the potential for a large number of consumers to suffer material investment losses.
- 2.6 The real possibility of such an outcome means that the Requirements are necessary to prevent SVS's regulatory failings leading to a series of events that ultimately cause damage to the integrity of the United Kingdom financial system. This approach is consistent with the Authority's operational objectives.
- 2.7 Accordingly, the Authority is satisfied that it is a proportionate use of its powers under the Act to impose the Requirements with immediate effect.

## **3. DEFINITIONS**

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

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

“AIM” is a multilateral trading facility operated and regulated by the London Stock Exchange Plc;

“the Appropriate Resources Threshold Condition” means the threshold condition set out in paragraph 2D of Schedule 6 to the Act;

“the Authority” means the body corporate previously known as the Financial Services Authority and re-named on 1 April 2013 as the Financial Conduct Authority;

“the Authority’s Handbook” means the Authority’s Handbook of current rules and guidance;

“the Authority’s register” means the Financial Services Register, published at <https://register.fca.org.uk/>;

“CASS” means the Authority’s Client Assets Sourcebook in the Handbook;

“Clients” means the natural persons or other clients named in SVS’s records as the investors for whom it manages investments and also includes any entity (such as trustees for SIPPs) holding, managing or administering assets on behalf of such investors;

“COBS” means the Authority’s Conduct of Business Sourcebook in the Handbook;

“PROD” means the Authority’s Product Intervention and Product Governance Sourcebook;

“the Requirements” means the requirements imposed on SVS pursuant to section 55L of the Act, set out in paragraphs 1.2 to 1.17 of this Notice;

“the Suitability Threshold Condition” means the threshold condition set out in paragraph 2E of Schedule 6 to the Act;

“SVS” means SVS Securities Plc;

“SYSC” means the Authority’s Senior Management Arrangements, Systems and Controls Sourcebook in the Handbook;

“the Threshold Conditions” means the threshold conditions set out in Part 1B of Schedule 6 to the Act; and

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

## **4. FACTS AND MATTERS**

### **Background**

- 4.1 SVS has been regulated by the Authority since 9 April 2003. It has permission under Part 4A of the Act to carry out a range of regulated advisory and transactional activities. Its principal business activities include: advising on investments, dealing in investments as agent, dealing in investments as principal, managing investments, arranging safeguarding and administration of assets, and safeguarding and administration of assets.

### *SVS's senior management*

- 4.2 SVS's management team includes, amongst others, the following individuals: Demetrious Christos Hadjigeorgiou (CEO) who has been approved to perform the CF3 (CEO) controlled function since 1 May 2018, having been approved to perform the CF1 (Director) controlled function since 4 January 2017; David John Alexander Stephen who has been approved to perform the CF10 (Compliance oversight) and CF11 (Money laundering) controlled function since 6 August 2014; Andrew John Alec Flitcroft who has been approved to perform the CF2 (Non-executive director) controlled function since 14 October 2016; Kulvir Virk who has been approved to perform the CF1 (Director) controlled function since 9 April 2003; and Ruchir Rupani (Finance Director) who has been approved to perform the CF1 (Director) controlled function since 23 April 2018.

### *SVS's services to its clients*

- 4.3 SVS's four main services, or business areas, are:

- Advisory - traditional stockbroking services (private client broking) on an advisory basis to both retail and Institutional clients. This also includes taking part in AIM listings and secondary placings on a principal basis ("Advisory").
- Discretionary – Investment into model portfolios or custom-made portfolios by one of the SVS Discretionary team ("DFM Business").
- Execution only - online equity, ISA, SIPP trading on an execution only basis ("Execution").
- Foreign exchange ("FX") trading - Retail online execution only FX business that operates under the trading name of SVSFX.

- 4.4 SVS's Advisory service purports to provide advisory clients, both retail and Institutional, with "a comprehensive dealing service in UK listed and quoted equities; advice on investment decisions tailored to a client's objectives and financial situation suitable investment ideas tailored to a client's attitude to risk; personal attention to queries; valuations and reports, if available, and a nominee and custody service". SVS also takes part in AIM listings and secondary fund-raising placings where "we believe there will be potential growth for our Advisory clients".

- 4.5 The model portfolios invest in a mixture of equities, fixed income & unit trusts and can be tailored to meet different client investment objectives. The Model Portfolios are: GIA Income, GIA Mixed, GIA Aggressive Growth, ISA Income, ISA Mixed and ISA Growth.

### *Recent supervisory contact with SVS*

- 4.6 Following information provided to the Authority by SVS during 2017, the Authority's Supervision Department ("Supervision") wrote to SVS on 23 January 2018 setting out its concerns over the lack of due diligence, high concentration and liquidity risk in relation to bonds issued by Corporate Finance Bonds Limited ("CFBL"). Supervision asked SVS to consider the risks posed by these investments and to act on the concerns set out its January 2018 letter. On 1 February 2018, SVS responded giving assurances that its Board would address these concerns.

- 4.7 On 13 May 2019, Supervision sent an information request to SVS prompted in part by complaints from its customers about the make-up and transparency of SVS' Model Portfolios. On 16 May, SVS provided the Authority with information, including an explanation of its approach to due diligence on investments in its model portfolios. Specifically, SVS informed the Authority that its due diligence into new bond products included: (a) establishing that those investments were listed on recognised exchanges; (b) open-source searches; and (c) reliance on the due diligence of regulatory bodies.
- 4.8 On 2 July 2019, Supervision conducted a site-visit at SVS's offices.
- 4.9 Supervision conducted a review of documents and correspondence obtained during the 2 July site visit. On 19 July 2019, Supervision wrote to SVS setting out a number of regulatory concerns resulting from the visit, and proposing the imposition of voluntary requirements on SVS's Part 4A permission.
- 4.10 Supervision's review did not substantiate SVS's description of due diligence steps for prospective investments that SVS provided to the Authority in its written response dated 16 May 2019. For a number of key investments in its model portfolios (notably CFBL bonds and Ingard Property Bond), SVS committed to invest in these products without carrying out any evident relevant and timely due diligence assessment. Instead, for example, SVS provided assistance and support to one bond issuer to help get its new bond listed, committed to purchase of that new bond products to a certain value prior to listing, advanced funds to a bond issuer to help cover the costs of listing the bond on an exchange and secure a rating. SVS also agreed to provide a price on Bloomberg and a secondary market in the CFBL bonds. This would potentially improve the liquidity of the bonds and so attract further investment.
- 4.11 On 26 July 2019, following discussions with Supervision, SVS applied to the Authority pursuant to section 55L(5)(a) for the imposition of the Voluntary Requirements on its Part 4A permission, by which SVS agreed: in relation to its DFM Business: not to carry out any regulated activities, not to accept any new client money or new custody assets (without the Authority's consent and with exemptions permitting certain largely administrative activities), and not to accept any new clients into any of its other business areas (Advisory, Execution and FX). SVS also agreed not to invest in any fixed income products across all business areas. An assets requirement was also imposed across all business areas as were certain requirements relating to record keeping, client asset reconciliations, capital preservation and regulatory reporting (see the Voluntary Requirements at Annex B).

#### **Breaches of the Product Intervention and Product Governance Sourcebook ("PROD")**

- 4.12 During the 2 July site visit, Supervision interviewed Mr Hadjigeorgiou and Mr A (a Portfolio Manager), who both stated that SVS had little detailed data regarding the composition of CFBL's book of loans, on which the bonds are based. Both stated that for its ongoing due diligence into the bond products and the performance of the underlying loans, SVS had relied almost entirely upon CFBL's assurances. Internal SVS correspondence from March 2019 reviewed by the Authority states that SVS lacked the data needed to monitor these investments, and suggests that SVS only requested the information from CFBL in response to a request from a SIPP trustee.

- 4.13 This is despite the provisions of PROD 3.3.1R which state that a distributor must: understand the financial instruments it distributes to clients; assess the compatibility of the financial instruments with the needs of the clients to whom it distributes investment services, taking into account the manufacturer's identified target market of end clients; and ensure that financial instruments are distributed only when this is in the best interests of the client.
- 4.14 Mr Hadjigeorgiou informed Supervision during the visit that he believed the CFBL bonds to be one of the strongest performing components in SVS's model portfolios. The Authority does not consider this assessment to be supported by evidence. It appears to be based on accepting at face value what limited information SVS is given about the bonds by CFBL, and the fact that the bond coupons get credited, indicating that the bonds are still performing.
- 4.15 Supervision's review of documents obtained during the visit indicates that SVS' model portfolios have had a consistently high exposure to CFBL bonds in circumstances in which SVS lacks adequate information about the underlying loan recipients, their financial standing, their potential to meet high interest rates set by CFBL, their ability to repay the principal sum at the end of the loan term, or the performance of the loans. This information is needed to assess the bonds and comply with the rule in PROD 3.3.3R that any investment product must be distributed in accordance with the needs, characteristics and objectives of its target market.

#### *Concentration risk*

- 4.16 By its letter of 23 January 2018, Supervision informed SVS of its concern over the concentration risk which arose given that SVS invested in different series of the CFBL bond within the same SVS model portfolio. In its response to the Authority on 1 February 2019, SVS acknowledged this concentration risk and the need to reduce it. It appears to the Authority that SVS has not done this and still does not have sufficient information to be able to assess the level of concentration risk from different CFBL bonds.
- 4.17 Despite the concerns expressed by Supervision in January 2018, SVS has in fact increased the exposure of its model portfolios to CFBL's bonds. From 31 March 2018 to 13 May 2019, CFBL exposure increased in its Income (53% to 78%), Mixed (46% to 61%) and Growth (45% to 51%) portfolios. These also include other illiquid investments with high or unknown risks. SVS increased this exposure in circumstances where it lacked information from CFBL properly to assess the risk of these investments.
- 4.18 Furthermore, approximately 90% of SVS' DFM Business customers are invested in SVS's model portfolios as a result of having received pension switching or pension transfer advice. Despite this, SVS does not appear to have taken steps to identify groups of end clients for whose needs, characteristics and objectives the CFBL bonds was not compatible. This is despite the provisions of PROD 3.3.15R(3) which require such steps to be taken. SVS appears to have relied instead on the assessments carried out by each end client's financial adviser.

#### *Conflicts of interest and governance*

- 4.19 Supervision has reviewed investment-related emails sent by SVS management between 2016 and the present date. These demonstrate that SVS worked closely with third parties, in particular bond issuers/product providers and professional



advisers, to help generate and sustain demand for the investment products offered through SVS, including in its DFM model portfolios.

- 4.20 SVS has done this without apparent regard for the investment needs of customers and with the result that these customers were subject to a series of high fees and charges paid to SVS and to other transaction parties. In some cases, these fees, commissions and charges amounted to over 20% of the customer's total investment. The approach taken by SVS to customer fees and charges is despite the provisions of PROD 3.3.1R(3), which requires distributors to ensure that financial instruments (such as the CFBL bonds) are distributed only when this is in the best interests of the client.
- 4.21 PROD 3.3.10R also required SVS to identify the target market for the CFBL bonds, and provides that when complying with this rule, SVS should consider factors such as how the bonds fit with the needs and risk appetite of end-clients (PROD 3.3.11G (1)) as well as the impact of charges on the end clients (PROD 3.3.11G (2)).
- 4.22 Supervision's review has found no documentation recording that SVS had carried out these assessments.

### **Breaches of COBS**

- 4.23 The high level of fees and the associated arrangements in some instances represent a level of inducement that puts at risk SVS' ability to act in the best interests of its customers. For example:
- a) from at least two of the bond issuers whose products SVS included in its model portfolios, SVS received 10% commission on the "investment" funds it obtained through financial advisers. As part of the fee agreement it reached with CFBL, SVS also received a further 2% fee for "administrative services" which included support as a market maker and updating pricing of CFBL bonds.
  - b) In its agreement with another issuer whose bond it included in its model portfolios, SVS was paid an additional 2% fee which was described as a "corporate finance fee". All these fees were determined by reference to the amount of investment by SVS in the relevant product.
- 4.24 In the absence of any explanation from SVS, the Authority is concerned that the amount of the payments (expressed as a percentage of the sums invested), together with the trigger for payment (channelling investor funds into bond products) may contravene restrictions on the payment of inducements, including commission, in COBS; and the Authority has found no evidence to indicate that the 10% payments received by SVS were necessary for the investment services it provided. In addition, SVS pays a fee to introducers where investments have been procured by them. SVS has informed the Authority that this fee is currently 6% of the sum invested. It is paid out of the sum transferred prior to investment.
- 4.25 The Authority is concerned that this high level of fees and charges has negatively impacted customers. For example, once account is taken of the cumulative effect of fees and charges incurred in the transfer/switch and reinvestment of a pension, a customer's investment sum is reduced in some cases by nearly a quarter. The extent of the total fee burden on customers also raises concerns that some of fees may not have been properly disclosed in accordance with the disclosure rules in COBS 6, or the general information disclosure rule in COBS 2.2.1R.

## Breaches of SYSC

- 4.26 SVS has repeatedly failed to properly identify, record and manage conflicts of interest in respect of SVS and its directors' connections to, and interests in, bond issuers whose products SVS included as investments in the DFM model portfolios. This is despite the requirement in SYSC 10/1/7R that firms maintain and operate effective organisational administrative arrangements with a view to taking all reasonable steps to prevent conflicts of interests adversely affecting the interests of its clients.
- 4.27 SVS has breached this requirement on several occasions in circumstances where an actual conflict of interests was, or should have been apparent to the relevant director and to the rest of SVS' senior management. Supervision's review has found no evidence that SVS had on any of these occasions carried out the assessment that is required by SYSC 10.1.4R.
- 4.28 SVS's close relationship with one bond provider, Ingard Financial Limited ("Ingard"), included up-front payments for Ingard's professional fees to help Ingard to secure a listing on a recognised exchange (and to apply for a rating). At the time this took place, Mr B was serving as both a director of SVS and [REDACTED] shareholder of Ingard. SVS decided to invest funds on behalf of its DFM customers in Ingard's investment products. During his interview with the Authority on 2 July 2019, Mr Hadjigeorgiou stated that SVS only disclosed Mr B's conflict of interests in the statements sent to investors after concerns were raised by SIPP trustees. An e-mail between Mr Hadjigeorgiou and Mr B in October 2018 indicated that SVS had assured a SIPP provider in January 2018 that it would seek to sell down the Ingard holding on account of the conflict of interests, but had not yet done so.
- 4.29 Mr Flitcroft was the sole CF2 non-executive director of SVS when he introduced Angelfish Investments Plc ("Angelfish") to SVS as a potential investment for the SVS model portfolios in mid-2018. He was also a director of Angelfish. SVS included Angelfish preference shares in its model portfolios. In late 2018, Mr Flitcroft resigned as a director of Angelfish on account of the conflict of interests, though continued to work for Angelfish as an adviser.
- 4.30 Neither Mr Flitcroft nor Mr B disclosed to the relevant clients of SVS their connection to the respective investments until after those investments had been made, and only once concerns had been raised with SVS by SIPP trustees. SVS' apparently reactive approach to conflicts of interest is a matter of serious concern to the Authority. SYSC 10.1.8R requires that SVS fully disclose conflicts of interest to clients prior to undertaking the relevant business, where arrangements to manage that conflict under SYSC 10.17R would be insufficient. In both instances, no proper arrangements were in place at SVS and disclosures were not made to clients until after their funds had been committed to the investments. This approach calls into question the integrity of both these directors and raises concerns about the lack of challenge from those other Board members who were aware of the conflicts of interests and of the approach taken by SVS at the time these investments were made.

### *Lack of appropriate challenge within SVS' business to the selection of investments*

- 4.31 Supervision's review of SVS's correspondence and documents shows that its business model and its approach to choosing and managing investments met with little or no challenge from either SVS's sole non-executive director, Mr Flitcroft, or

from SVS's CF10, Mr Stephen. Challenge appears to have come from independent third parties, such as SIPP providers/trustees.

- 4.32 The Authority has also identified financial connections between SVS and Mr C, a senior figure at CFBL. An entity controlled by Mr C has provided SVS with a loan facility of £1,000,000. This appears to be secured by a fixed and floating charge over SVS's business.
- 4.33 The Authority is concerned that SVS may have allowed Mr C to influence its investment decisions and strategy, including for the DFM model portfolios. For example, the loan facility provided to SVS by CFBL raises concerns about SVS' ability to take investment decisions on behalf of its DFM Business customers on an independent basis.

The charge in favour an entity controlled by Mr C remains in place at Companies House, and its status is "outstanding". An e-mail from CFBL to Mr Hadjigeorgiou dated 20 December 2018 indicated that the loan balance then stood at £225,000 and that SVS had been in arrears on its repayments since April 2018. When Mr Hadjigeorgiou was asked about this loan during his interview by the Authority on 2 July 2019, he stated that he was aware that there had been a loan from CFBL but told the Authority that he was unsure whether it was still outstanding.

#### *Misleading the Authority*

- 4.34 Supervision understood from its recent discussions with SVS that exposure to illiquid fixed-income bonds/products was limited to SVS' model portfolios. When asked by the Authority during his interview on 2 July 2019 whether such products were held outside the model portfolios, Mr A, a portfolio manager at SVS, stated that the products sat exclusively in the model portfolios. During a call on 24 July 2019 between SVS, its legal advisers and the Authority, SVS informed the Authority that there appear to have been coding errors which suggested that advisory clients were exposed to the fixed income products of concern to the Authority. SVS informed the Authority that the only such exposure had been in 2015, before the model portfolios were set up. The clear implication of SVS' statement was that advisory clients of SVS are not currently exposed to these fixed-income products.
- 4.35 Subsequent examination of SVS records relating to its advisory, ISA and online trading pool, shows that these assertions were incorrect; the advisory pool contains an exposure to some of the same non-liquid assets as the model portfolios:
- ANGELFISH INVESTMENTS - £741k
  - INGARD PROPERTY BOND 2 DAC - £3m
  - INGARD PROPERTY BOND DAC - £2.6m
  - INNOVATION CAPITAL FINANCE - £197k
  - CORPORATE FINANCE BONDS LIMITED SERIES 3 - £53k
  - CORPORATE FINANCE BONDS LIMITED SERIES 5 - £1.7m
  - CORPORATE FINANCE BONDS LIMITED SERIES 6 - £1.6m
  - CORPORATE FINANCE BONDS LIMITED SERIES 8 - £777k
  - CORPORATE FINANCE BONDS LIMITED SERIES 9 - £17.8m

- CORPORATE FINANCE BONDS LIMITED SERIES 10 - £174k

4.36 It also appears that there are SVS holdings in the online pool:

- SVS SECURITIES PLC BOND (BLRZNY9) - £231k
- SVS SECURITIES PLC (B6WC4Q9) - £176k

4.37 And in the Advisory account:

- SVS SECURITIES PLC BOND (BLRZNY9) - £9k
- SVS SECURITIES PLC (B6WC4Q9) - £1.3m

4.38 The discovery of these holdings in the advisory pool raises concerns that issues initially restricted to SVS' DFM model portfolios are apparent in other business lines.

4.39 During the Authority's visit to SVS on 2 July 2019, Mr Hadjigeorgiou was asked about SVS' remuneration arrangements. Mr Hadjigeorgiou acknowledged that SVS received a commission payment of 10% of the funds invested. When pressed about any other arrangements with CFBL, Mr Hadjigeorgiou stated that SVS had been paid by Specialist Advisers Limited for some help producing brochures, but added by way of explanation that "*the investment opportunity did not go ahead*". Documents reviewed by the Authority indicate that payments to Specialist Advisers Limited were in fact made as part of a more permanent commission arrangement between SVS and CFBL. As noted in paragraph 4.23(b) above, SVS and CFBL agreed an additional fee of 2% of the funds invested. Mr Hadjigeorgiou is copied into correspondence with CFBL in March 2017 in which this 2% fee is described as an "administration fee" that should be invoiced to Specialist Advisers Limited. An invoice in the amount of £26,423.50 from SVS to Specialist Advisers Limited dated 31 March 2017 refers to "*2% Fee for Series 4 Bond raised*".

4.40 The Authority is concerned that SVS has not been open and cooperative in its engagement with Supervision, and failed to disclose full information regarding its customers' exposure to illiquid fixed-income bonds, in breach of Principle 11.

4.41 Mr Hadjigeorgiou provided the Authority with an explanation of SVS' fee arrangements with CFBL that appears to be materially inaccurate. This raises a significant concern over the reliability and completeness of information provided to the Authority by SVS and provides further evidence that SVS is failing to satisfy the threshold conditions.

#### *Skill, care and diligence*

4.42 Mr Hadjigeorgiou confirmed during the site-visit that SVS did not have a pricing policy. No satisfactory explanations were provided during interviews with any of SVS senior management to explain how SVS ensures the integrity of its asset prices. The basis on which illiquid assets are valued is therefore not apparent to the Authority.

4.43 The Authority's concerns regarding the integrity of SVS' asset prices are increased by the following examples:

- a) SVS' Advisory account contains exposure to AMERICAPITAL ORD of c.£8.5mn. This is the largest holding in this account. The extent to which this security has an intrinsic value is unclear. Mr Bushell, SVS's CF10a, told

Supervision that SVS still receives a price. However, the underlying company has been dissolved, according to Companies House records.

- b) SVS' Advisory account contains exposure to AFFINITY DEVELOPMENTS PLC for c.£6.4mn which is the second largest holding in this account. The asset is held as a physical certificate. Companies House state that an administrator was appointed over this company on 12 June 2019.
- c) During the visit on 2 July, SVS provided a record of a holding in a related entity, ANILANA INTL DEVEL PLC (FORMERLY AFFINITY GLOBAL), held as a physical certificate with a value of c.£3.8mn. It appears that this valuation has now been marked to zero.
- d) Angelfish published its financial results in June this year, for the financial year ending 31 December 2018. These accounts disclose that Angelfish is in financial difficulties and is planning to restructure. As part of this restructuring proposal, holders of Angelfish preference shares will be asked to approve a plan to replace their preference shares with bonds. The preference shares were due to mature in March 2021. Given the disclosures Angelfish has now made to the market, coupled with the fact that it has written off nearly £1million of bad debt and its remaining investments are in small unlisted companies, there is the prospect that Angelfish will be unable to repay SVS customers their investment of £4.2million, plus interest.

4.44 These issues raise concerns over the skill, care and diligence SVS is applying in relation to valuations. Without appropriate valuation, it is unclear how SVS is able to: perform appropriate selection and maintenance of the securities that constitute the model portfolios; advise customers on those securities; and ensure the fair treatment of customers.

4.45 In addition, email correspondence records that SVS encouraged IFAs to promote SVS's model portfolios as an investment solution specifically for clients who were proposing a defined benefit pension transfer or SIPP switch. Yet SVS increased the proportion of illiquid and high-risk bonds in its model portfolios. This is likely not consistent with the needs and risk appetite of pension investors. In the conduct of its DFM business, and its promotion of high-risk bonds to retail investors, the Authority considers that SVS has failed to show due regard to the interests of its customers, and failed to treat them fairly.

4.46 Accordingly, it appears to the Authority that SVS may have breached Principles 2 and 6.

## **CASS**

4.47 On 2 July 2019, the Authority's Client Assets Resolution Department ("CARD") conducted an assessment of SVS' client assets arrangements and identified deficiencies with its compliance with the Client Assets sourcebook (CASS). In summary, the assessment identified the following failings:

- a) in an e-mail dated 11 July 2019, Mr Bushell (CF10a) stated that SVS was under-reporting custody assets by not including the value of eight accounts which together have a value of around £85 million. This indicated a lack of adequate checks and controls.

- b) CARD expressed its concern with the general oversight and governance around the CASS environment at SVS, including in respect documentation, policies, reporting and escalation of issues.
- c) the Client Money and Asset Return ("CMAR") report of SVS did not state the method or frequency of the internal custody record check. This is required by CASS 6.6.13R. When asked about this during his interview with the Authority on 9 July, Mr Bushell, the CF10a was unable to confirm the type of reconciliation which was being conducted or how SVS has complied with these requirements.
- d) There were indications of other CASS issues, for example the treatment of the FX margin on the internal client money reconciliations, which need further investigation and explanation from the firm.
- e) SVS' CMAR report between April and May 2019 shows a material inconsistency in the valuation of custody assets, which was confirmed by SVS' Finance Director, Ruchir Rupani. The April CMAR submission confirmed a total value of custody assets of £249 million and the May CMAR submission confirmed a total value of custody assets at £178 million. This brings into question the reconciliation and valuation methodology, and related systems and controls which should be in place to ensure that serious errors are identified and corrected.

4.48 The Authority also has concerns about the financial resources of SVS. The Authority notes that in June 2014 SVS issued the 5-year SVS Securities Bond. This bond had a maturity date of 30 June 2019. During a meeting with the Authority on 31 July 2019, SVS disclosed that it has not paid some or all of the bondholders and was unable to explain to the Authority how it proposes to meet this liability.

## **5. CONCERNS**

- 5.1 The regulatory provisions relevant to this First Supervisory Notice are set out in Annex A.
- 5.2 Section 55L of the Act allows the Authority to impose a new requirement, or to vary a requirement previously imposed by the Authority under section 55L, on an authorised person if it appears to the Authority that the authorised person is failing, or is 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)). This power is referred to as the Authority's own-initiative requirement power.

### **Breaches of the Principles for Businesses**

- 5.3 The matters set out in paragraphs 4.27 to 4.30 above strongly indicate that SVS the inadequate management/disclosure of conflicts of interest by SVS contravened Principle 8 (a firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client) and Principle 9 (a firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment).
- 5.4 By investing DFM Business funds into products without carrying out adequate independent reviews to assess the risk of the products or their compatibility for end clients, the Authority considers that SVS breached Principle 6 of the Principles for

Businesses in the Authority's Handbook. SVS is also likely to have breached Principle 6 by its commission arrangements with bond issuers. In response to enquiries from the Authority on these and other issues, SVS failed in several instances to provide full and accurate information to the Authority, which the Authority considers to be in breach of Principles 11 and 1.

### **Failing to satisfy Threshold Conditions**

#### *Appropriate Resources Threshold Condition*

- 5.5 The Appropriate Resources Threshold Condition requires that the resources of an authorised firm must be appropriate in relation to the regulated activities that it carries on or seeks to carry on. SVS appears to be failing to satisfy the Appropriate Resources Threshold Condition because it appears to lack the necessary non-financial resources. Specifically, a majority of the current senior management team, including those approved to perform significant influence functions, appear to the Authority to have been closely involved, over an extended period, in some of the conduct which has resulted in the breaches, and thereby do not demonstrate the skills, experience and competence required to properly manage SVS's affairs.

#### *Suitability Threshold Condition*

- 5.6 The Suitability Threshold Condition requires that an authorised firm must be a fit and proper person having regard to all the circumstances.
- 5.7 COND 2.5.2G provides that the Authority will take into consideration anything that could influence a firm's continuing ability to satisfy the Suitability Threshold Condition. COND 2.5.4G provides examples of the kind of general considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, the Suitability Threshold Condition. These include, but are not limited to, whether the firm conducts its business with integrity and in compliance with proper standards, has a competent and prudent management and can demonstrate that it conducts its affairs with the exercise of due skill, care and diligence. On the basis of these considerations, and the conduct described in the Notice, it does not appear to the Authority that SVS is satisfying the Suitability Threshold Condition.
- 5.8 The Authority observes that Threshold Conditions are minimum requirements Parliament has enacted through the Act, that firms need to meet those minimum requirements in order to be authorised in the first place, and in order to continue carrying on regulated activities. It appears to the Authority that SVS is failing, or is likely to fail, to satisfy those minimum requirements.

### **Desirable in order to advance the Authority's operational objectives**

- 5.9 Section 1B(3) of the Act provides that the Authority's operational objectives include the consumer protection and integrity objectives.
- 5.10 The Authority's consumer protection objective is securing an appropriate degree of protection for consumers. In considering what degree of protection for consumers may be appropriate, the Act provides that the Authority must have regard to several factors including, amongst others:

“the general principle that those providing regulated financial services should be expected to provide consumers with a level of care that is appropriate

having regard to the degree of risk involved in relation to the investment or other transaction and the capabilities of the consumers in question" (section 1C(2)(e)).

- 5.11 The Authority considers that the failings set out in this Notice suggest that SVS has fallen well below this standard and is conducting its business in a way that creates an ongoing risk to consumers, some of whom may be facing material investment losses within personal pension portfolios.
- 5.12 The Authority's integrity objective is protecting and enhancing the integrity of the UK financial system. The integrity of the UK financial system includes, amongst other matters, its soundness, stability and resilience (section 1D(2)(a)) and the orderly operation of the financial markets (section 1D(2)(d)).
- 5.13 On the basis of the facts and matters set out in the Notice it appears to the Authority that it is desirable to exercise the power under section 55L in order to advance the Authority's consumer protection and integrity objectives.

### **Timing of action**

- 5.14 The Authority, having regard to the grounds for taking the action set out in paragraphs 1.2 to 1.15 of this Notice, reasonably considers it necessary that the Requirements should take effect immediately. The Authority has concerns over the integrity of key individuals within SVS' management, over the adequacy of SVS' systems and controls and its ability or willingness to comply with the Authority's rules. The Authority also has immediate concerns over the adequacy of SVS' financial resources. In light of these concerns, the requirements in paragraph 1 above are necessary to further the Authority's operational objectives, noting in particular that around 90% of clients in the SVS model portfolios invested after receiving pension switching or pension transfer advice, so any investment loss may represent a significant reduction or loss of retirement income.
- 5.15 It also reasonably considers it necessary that the Requirements should remain in effect until the Authority is satisfied that SVS has demonstrated that it is, and will remain, in compliance with the Threshold Conditions and with all applicable regulatory rules and requirements.

## **6. PROCEDURAL MATTERS**

- 6.1 This First Supervisory Notice is given under section 55Y(4) and in accordance with section 55Y(5) of the Act and is being served on SVS at its place of business as last notified to the Authority.

### **Decision maker**

- 6.2 The decision which gave rise to the obligation to give this First Supervisory Notice was made by the Chair of the Regulatory Decisions Committee.

### **Representations**

- 6.3 SVS has the right to make written and oral representations to the Authority (whether or not it refers this matter to the Tribunal).



- 6.4 Any written representations must be made by **19 August 2019** or such later date as may be permitted by the Authority. Written representations should be made to the Regulatory Decisions Committee and sent to:

Lynn Cheesman  
Decision-Making Committees Secretariat  
The Financial Conduct Authority  
12 Endeavour Square  
London  
E20 1JN

- 6.5 The Authority must be informed in writing of any intention to make oral representations by **19 August 2019**. If the Authority is not notified by this date, SVS will not, other than in exceptional circumstances, be able to make oral representations.

### **The Tribunal**

- 6.6 SVS has the right to refer the matter to which this First Supervisory Notice relates to the Tribunal. The Tax and Chancery Chamber is the 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, SVS has 28 days from the date on which this First Supervisory Notice is given to it to refer the matter to the Tribunal.

- 6.7 A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by or on behalf of SVS and filed with a copy of this First Supervisory Notice. The Tribunal's contact details are: The Upper Tribunal, Tax and Chancery Chamber, Fifth Floor, Rolls Building, Fetter Lane, London, EC4A 1NL (telephone: 020 7612 9730; email: [uttc@hmcts.gsi.gov.uk](mailto:uttc@hmcts.gsi.gov.uk)).

- 6.8 For further information on the Tribunal (including the power to vary time periods) SVS should refer to the HM Courts and Tribunal Service website which will provide guidance and the relevant form to complete. The relevant page on HM Courts and Tribunal Service website can be accessed via the following link:

<https://www.gov.uk/courts-tribunals/upper-tribunal-tax-and-chancery-chamber>

- 6.9 SVS should note that a copy of the reference notice (Form FTC3) must also be sent to the Authority at the same time as filing a reference with the Tribunal. A copy of the reference notice should be sent to Sam Clyndes at the Financial Conduct Authority, 12, Endeavour Square, London, E20 1JN, Canary Wharf, London E14 5HS.

### **Access to Evidence**

- 6.10 Section 394 of the Act does not apply to this First Supervisory Notice.

### **Confidentiality and Publicity**

- 6.11 SVS 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 advice on its contents).

6.12 SVS should note that section 391 of the Act requires the Authority, when the First Supervisory Notice takes effect, to publish such information about the matter as it considers appropriate.

#### **Authority contacts**

6.13 For more information concerning this matter generally, contact Andrew Foley, Manager, Investment Intermediaries and Scams, Supervision (Investment, Wholesale & Specialists) Division at the Authority (direct line: 020 7061 2108 or email: [andrew.foley@fca.org.uk](mailto:andrew.foley@fca.org.uk) ).

6.14 Any questions regarding the procedures of the Regulatory Decisions Committee should be directed to the RDC Secretariat (email: [DMCScaseinbox@fca.org.uk](mailto:DMCScaseinbox@fca.org.uk)).

**Mark Roberts, Manager, DMC Secretariat on behalf of  
Tim Parkes  
Chair, Regulatory Decisions Committee**

## **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 (section 1C) and protecting and enhancing the integrity of the UK financial system (section 1D).
2. Section 55L of the Act allows the Authority to impose a new requirement on an authorised person, or to vary a requirement previously imposed by the Authority under section 55L, if it appears to the Authority that the authorised person is failing, or is 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)). This power is referred to as the Authority's own-initiative requirement power.
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)). Section 55N(2) provides that a requirement may extend to activities which are not regulated activities.
4. Pursuant to 55P(4)(a) of the Act, an assets requirement means a requirement prohibiting the disposal of, or other dealing with, any of the subject's assets (whether in the United Kingdom or elsewhere) or restricting such disposals or dealings. If the Authority gives notice of such a requirement to any institution with whom the subject has an account, the notice has the effects, for that institution, set out in section 55P(6) of the Act. Those effects are that—
  - (a) the institution does not act in breach of any contract with the subject if, having been instructed by the subject (or on the subject's behalf) to transfer any sum or otherwise make any payment out of the subject's account, it refuses to do so in the reasonably held belief that complying with the instruction would be incompatible with the requirement, and
  - (b) if the institution complies with such an instruction, it is liable to pay to the Authority an amount equal to the amount transferred from, or otherwise paid out of, the subject's account in contravention of the requirement.
5. Section 55Y of the Act allows a requirement imposed under the own-initiative requirement power to take effect immediately (or on a specified date) only if the Authority, having regard to the ground on which it is exercising its own-initiative requirement power, reasonably considers that it is necessary for the variation or imposition of the requirement to take effect immediately (or on that date). Section 391 of the Act provides that, when a supervisory notice takes effect, the Authority must publish such information about the matter to which the notice relates as it considers appropriate. However, the Authority may not publish information 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.
6. The Threshold Conditions represent the minimum standards which a firm is required to satisfy, and continue to satisfy, in order to be given and to retain a Part 4A Permission. They are set out in Part 1B of Schedule 6 to the Act.

7. The Appropriate Resources Threshold Condition provides, in relation to a person ("A") carrying on or seeking to carry on regulated activities which do not consist of or include a PRA-regulated activity, that:

"The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on."

8. The matters which are relevant in determining whether A has appropriate non-financial resources include the skills and experience of those who manage A's affairs.
9. Appropriate resources: paragraph 2D(1) states that the resources of the firm must be appropriate in relation to the regulated activities that it carries on or seeks to carry on. Paragraph 2D(4) states that the matters which are relevant in determining whether a firm has appropriate non-financial resources include- (a) the skills and experience of those who manage the firm's affairs.
10. The Suitability Threshold Condition in paragraph 2E of Schedule 6 to the Act states that:

"A must be a fit and proper person having regard to all the circumstances, including—

- (a) A's connection with any person;
- (b) the nature (including the complexity) of the regulated activities that A carries on or seeks to carry on;
- (c) the need to ensure that A's affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and the integrity of the UK financial system;
- (d) whether A has complied and is complying with requirements imposed by [the Authority] in the exercise of its functions, or requests made by [the Authority], relating to the provision of information to [the Authority] and, where A has so complied or is so complying, the manner of that compliance;
- (e) whether those who manage A's affairs have adequate skills and experience and have acted and may be expected to act with probity;
- (f) whether A's business is being, or is to be, managed in such a way as to ensure that its affairs will be conducted in a sound and prudent manner;

[...]"

## **RELEVANT REGULATORY PROVISIONS**

### The Principles for Businesses

11. The Principles for Businesses (PRIN) are a general statement of the fundamental obligations of firms under the regulatory system. PRIN 1.1.2R provides that they derive their authority from the Authority's rule-making powers as set out in the Act and reflect the statutory objectives. The Principles are set out at PRIN 2.1.1, and those relevant to this Notice are:

Principle 1 provides that a firm must conduct its business with integrity.

Principle 6 provides that a firm must pay due regard to the interests of its customers and treat them fairly.

Principle 8 provides that a firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.

Principle 9 provides that a firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment.

Principle 11 provides that a firm must deal with its regulators in an open and cooperative way, and must disclose to the Authority appropriately anything relating to the firm of which that regulator would reasonably expect notice.

### Product Intervention and Product Governance

12. The section of the Handbook entitled Product Intervention and Product Governance Source Book (PROD) gives guidance to improve firms' product oversight and governance processes and to set out the Authority's statement of policy on making temporary product intervention rules. PROD has applied since 3 January 2018.
13. PROD 1.1.2G provides that product oversight and governance refers to the systems and controls firms have in place to design, approve, market and manage products throughout the products' lifecycle to ensure they meet legal and regulatory requirements.
14. PROD 1.1.3G provides that good product governance should result in products that: (1) meet the needs of one or more identifiable target markets; (2) are sold to clients in the target markets by appropriate distribution channels; and (3) deliver appropriate client outcomes.
15. PROD 3.3.1R provides that a distributor must: (1) understand the financial instruments it distributes to clients; (2) assess the compatibility of the financial instruments with the needs of the clients to whom it distributes investment services, taking into account the manufacturer's identified target market of end clients; and (3) ensure that financial instruments are distributed only when this is in the best interests of the client (see COBS 2.1.1R(1)).
16. PROD 3.3.3R provides that distributors must obtain from MiFID manufacturers information to gain the necessary understanding and knowledge of the financial instruments they intend to distribute in order to ensure that the financial instruments will be distributed in accordance with the needs, characteristics and objectives of the target market.
17. PROD 3.3.10R provides that distributors must identify the target market and their distribution strategy using: (1) the information obtained from manufacturers; and (2) information they have on their own clients.
18. PROD 3.3.11G provides that in identifying the target market and creating a distribution strategy, distributors should consider: (1) the nature of the financial instruments to be offered or recommended and how they fit with end clients' needs and risk appetite; (2) the impact of charges on end clients; (3) the financial strength of the manufacturer; and (4) where information is available on the

manufacturer's processes, how efficiently and reliably the manufacturer will deal with the end client at the point of sale or subsequently, such as when complaints arise, claims are made or the financial instrument reaches maturity.

19. PROD 3.3.15R provides that: (1) distributors must have in place adequate product governance arrangements to ensure that (a) the financial instruments and investment services they intend to distribute are compatible with the needs, characteristics and objectives of the identified target market; and (b) the intended distribution strategy is consistent with the identified target market; (2) distributors must appropriately identify and assess the circumstances and needs of the clients they intend to focus on to ensure that their clients' interests are not compromised as a result of commercial or funding pressures, and (3) distributors must identify any groups of end clients for whose needs, characteristics and objectives the financial instrument or investment service is not compatible.

#### Conduct of Business

20. Chapter 2 of the section of the Handbook entitled the Conduct of Business Sourcebook (COBS) gives guidance on firms' conduct of business obligations. COBS 2.2.1R provides, amongst other matters, that a firm must provide appropriate information in a comprehensible form to a client about costs and associated charges.
21. COBS 6.1 imposes requirements relating to disclosure of information to clients that are additional to the general requirement in COBS 2.2. COBS 6.1.9R provides, amongst other matters, that a firm must provide a client with information on costs and associated charges including, if applicable: (1) the total price to be paid by the client in connection with the designated investment or the designated investment business, including all related fees, commissions, charges and expenses, and all taxes payable via the firm or, if an exact price cannot be indicated, the basis for the calculation of the total price so that the client can verify it. The commissions charged by the firm must be itemised separately in every case.

#### Senior Management Arrangements, Systems and Controls

22. The section of the Handbook entitled Senior Management Arrangements, Systems and Controls (SYSC) amplifies Principle 3, under which a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
23. SYSC 10.1.4R provides that for the purposes of identifying the types of conflict of interest that arise, or may arise, in the course of providing a service and whose existence may damage the interests of a client, a management company must take into account, as a minimum, whether the firm or a relevant person, or a person directly or indirectly linked by control to the firm:
  - (1) is likely to make a financial gain, or avoid a financial loss, at the expense of the client;
  - (2) has an interest in the outcome of a service provided to the client or of a transaction carried out on behalf of the client, which is distinct from the client's interest in that outcome;
  - (2A) in the case of a management company providing collective portfolio management services for a UCITS scheme, (2) also applies where the service

is provided to, or the transaction is carried out on behalf of, a client other than the UCITS scheme;

- (3) has a financial or other incentive to favour the interest of another client or group of clients over the interests of the client;
  - (4) carries on the same business as the client; or in the case of a management company, carries on the same activities for the UCITS scheme and for another client or clients which are not UCITS schemes; or
  - (5) receives or will receive from a person other than the client an inducement in relation to a service provided to the client, in the form of monies, goods or services, other than the standard commission or fee for that service.
24. SYSC 10.1.7R provides that a firm must maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps to prevent conflicts of interest as defined in SYSC 10.1.3R from adversely affecting the interests of its clients. SYSC 10.1.8R provides that:
- (1) If arrangements made by a firm under SYSC 10.1.7R are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of a client will be prevented, the firm must clearly disclose the following to the client before undertaking business for the client:
    - (a) the general nature or sources of conflicts of interest, or both; and
    - (b) the steps taken to mitigate those risks.
  - (2) The disclosure must:
    - (a) be made in a durable medium;
    - (b) clearly state that the organisational and administrative arrangements established by the firm to prevent or manage that conflict are not sufficient to ensure, with reasonable confidence, that the risks of damage to the interests of the client will be prevented;
    - (c) include specific description of the conflicts of interest that arise in the provision of insurance distribution activities, investment services or ancillary services;
    - (d) explain the risks to the client that arise as a result of the conflicts of interest; and
    - (e) include sufficient detail, taking into account the nature of the client, to enable that client to take an informed decision with respect to the service in the context of which the conflict of interest arises.

#### Threshold Conditions

25. The section of the Handbook entitled 'Threshold Conditions' (COND) gives guidance on the threshold conditions. COND 1.2.3G provides that the Authority may exercise its own-initiative powers under either section 55J or section 55L of the Act if, among other things, a firm is failing to satisfy any of the Threshold Conditions or is likely to do so.

26. COND 2.4.2G(2) provides that, in the context of the Appropriate Resources Threshold Condition, the Authority will interpret the term 'appropriate' as meaning sufficient in terms of quantity, quality and availability and 'resources' as including all financial resources, non-financial resources and means of managing its resources; for example, capital, provisions against liabilities, holdings of or access to cash and other liquid assets, human resources and effective means by which to manage risks.
27. COND 2.4.4G(2) provides that relevant matters to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, this Threshold Condition include whether there are any indications that the firm will not be able to meet its debts as they fall due, whether the firm has taken reasonable steps to identify and measure any risks of regulatory concern that it may encounter in conducting its business and has installed appropriate systems and controls and appointed appropriate human resources to measure them prudently at all times and whether the resources of the firm are commensurate with the likely risks it will face.
28. COND 2.5.2G provides that the Authority will take into consideration anything that could influence a firm's continuing ability to satisfy the Suitability Threshold Condition. COND 2.5.4G provides examples of the kind of general considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, the Suitability Threshold Condition. These include, but are not limited to, whether the firm conducts its business with integrity and in compliance with proper standards, has a competent and prudent management and can demonstrate that it conducts its affairs with the exercise of due skill, care and diligence.
29. Examples of the kind of particular considerations to which the Authority may have regard when assessing whether a firm will satisfy, and continue to satisfy, the Suitability Threshold Condition are outlined in COND 2.5.6G. These include whether the firm is ready, willing and organised to comply with the requirements and standards under the regulatory system and whether the firm has contravened any provisions of the Act or the regulatory system.

#### Enforcement Guide

30. The Authority's policy 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.
31. EG 8.2.1 provides that the Authority will have regard to its statutory objectives and the range of regulatory tools that are available to it, when it considers how it should deal with a concern about a firm. It will also have regard to the responsibilities of a firm's management to deal with concerns about the firm or about the way its business is being or has been run and the principle that a restriction imposed on a firm should be proportionate to the objectives the Authority is seeking to achieve.
32. EG 8.2.3 provides that the Authority will exercise its formal powers under section 55L of the Act, where the Authority considers it is appropriate to ensure a firm meets its regulatory requirements. EG 8.2.3(1) and (2) specifies that the Authority may consider it appropriate to exercise its powers where it has serious concerns about a firm or the way its business is being or has been conducted, where it is concerned that the consequences of a firm not taking the desired steps may be



serious or where the imposition of a formal statutory requirement reflects the importance the Authority attaches to the need for the firm to address its concerns.

33. EG 8.2.6G(2) provides that examples of circumstances in which the Authority will consider varying a firm's permission because it has serious concerns about a firm, or about the way its business is being or has been conducted include where, in relation to the grounds for exercising the power under section 55L(2)(c), it appears that the interests of consumers are at risk because the firm appears to have breached any of Principles 6 to 10 of the Authority's Principles (see PRIN 2.1.1R) to such an extent that it is desirable that limitations, restrictions, or prohibitions are placed on the firm's regulated activity.
34. EG 8.3.1 provides 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.
35. EG 8.3.2 provides 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 needs 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.

## **ANNEX B**

The Voluntary Requirements imposed on SVS on 26 July 2019 with immediate effect following an application by SVS pursuant to section 55L(5)(a) of the Act.

### **PART A –Discretionary Fund Management Business ("DFM")**

Paragraphs 1 to 4 in Part A (*Discretionary Fund Management Business*) apply to SVS' DFM business only.

#### **Cease regulated activities**

1. SVS (whether directly or through its agents) must not, without the prior written consent of the Authority, carry out any regulated activities apart from
  - (a) safeguarding and administering custody assets;
  - (b) as a result of the activities to facilitate the movement of client money and custody assets as permitted in paragraph 3.

#### **Client Money and Custody Assets**

2. SVS will not accept any new client money or new custody assets, whether from existing or new clients.
3. Paragraph 2 does not apply to the acceptance of new monies or custody assets from existing clients and/ or third parties by SVS as a result of or in relation to the following:
  - a) Receipt of dividends or coupons;
  - b) Rights issues;
  - c) Corporate actions including maturing bonds; and
  - d) Settlement of trades instructed but not yet settled as at the date of the requirements.

### **PART B: Other Business Areas (execution only, advisory, FX)**

Paragraphs 4 to 5 in Part B (*Other Business Areas*) apply to all of SVS' other business areas, other than the DFM business.

4. In addition to its DFM service, SVS will not accept any new clients into any of its other business areas.

## **Client Money and Custody Assets**

5. For the avoidance of doubt, SVS is allowed to accept new client money and new custody assets from existing clients in respect of regulated activities conducted in the Other Business Areas.

## **PART C: All Business Areas**

Paragraphs 6 to 14 in Part C (*All Business Areas*) apply to SVS Securities Plc business in its entirety.

## **Assets Requirement**

6. SVS will not, without the prior written consent of the Authority, and save as provided for in paragraph 7 below, in any way dispose of, withdraw, transfer, deal with or diminish the value of (i) any of its own assets, and (ii) any client money and custody assets it holds for clients (whether in the United Kingdom or elsewhere). For the avoidance doubt, this requirement includes any custodian accounts, client transaction accounts or any other account operated by or held with third parties on SVS's behalf.
7. Paragraph 6 does not apply to:
  - (a) monetary payments made by SVS of its own monies, in the ordinary course of business, amounting to no more than £5,000 whether as a single transaction or as a combination of related transactions;
  - (b) payment of fees and disbursements to Ashurst LLP and Leonard Curtis in relation to their assistance to SVS on this matter; or
  - (c) payments or transfers of client money held for clients of business lines other than the DFM, amounting to no more than £5,000 whether as a single transaction or as a combination of related transactions.
8. For the avoidance of doubt paragraphs 6 and 7 above are an assets requirement within the meaning of section 55P(4)(a) of the Act.

## **Secure Records**

9. SVS must secure all books and records and preserve information and systems relating 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 no later than 7 days after the coming into force of these Requirements, such that they can be provided to the Authority, or to a person named by the Authority, promptly on its request.

## **Client Assets Reconciliations**

10. SVS will on the date of these Requirements, and on an ongoing basis as required by the CASS rules, conduct a full reconciliation of all client money and custody assets in accordance with the CASS Rules, including both an internal and external reconciliation. Any shortfalls identified through this process should be notified by email to the Authority immediately and corrected by the next business day. For the avoidance of doubt, should consent of the Authority be required in accordance with Paragraph 8 this should be requested immediately.

## **Miscellaneous**

11. For such time as this VREQ is in place, SVS will not remove capital from the business.
12. SVS will not invest in any fixed income products with immediate effect, across all of its business areas.
13. A CF1 of SVS shall send to the Authority by email by 14.00 every day, until such time as it is notified in writing by the Authority written confirmation that SVS is in compliance with these Requirements.
14. The CF10A of SVS shall send to the Authority by email as set out below, until such time as it is notified in writing by the Authority
  - a) every Friday at 14.00, the client money reconciliation completed that day including the corresponding statements of client bank accounts; and
  - b) on the first Friday of each calendar month, the custody assets reconciliations.