
SECOND SUPERVISORY NOTICE

To: **DAC Pensions Limited**

Reference Number: **774721**

Address: 1 Gransden Park
Potton Road
Abbotsley
St. Neots
Cambridgeshire
PE19 6TY

Date: **1 July 2021**

1. ACTION

1.1. For the reasons given in this Second Supervisory Notice (“the Notice” or “SSN”), and pursuant to sections 55L(2)(a), 55L(2)(c) and 55L(3)(b) of the Financial Services and Markets Act 2000 (“the Act”), the Financial Conduct Authority (“the Authority”) has decided to vary the requirements (the “Requirements”) imposed on DAC Pensions Limited (“the Firm”) and notified to it in the First Supervisory Notice (“FSN”) dated 27 April 2021 so that:

- (1) The Firm must write to the customers of INTRODUCER 1 and INTRODUCER 2 in the terms of the letters included at Annex 1 of this SSN by 2 July 2021;
- (2) The Firm must confirm to the Authority by 2 July 2021 that it has written to customers of INTRODUCER 1 and INTRODUCER 2 as required by item (1) of the Requirements;
- (3) The Firm must provide a schedule to the Authority by 9 July 2021 containing the names, postal addresses, email addresses (if held) and telephone numbers of the customers of INTRODUCER 1 and INTRODUCER 2, together with a clear indication as to whether the individuals named are customers of INTRODUCER 1 or of INTRODUCER 2.

1.2. These Requirements shall take effect immediately and shall remain in force unless and until varied or cancelled by the Authority (either on the application of the Firm or at the Authority’s discretion).

2. REASONS FOR ACTION

Summary

2.1. The Authority has decided to take this action because it appears to the Authority that: (i) it is desirable to exercise its power to impose the Requirements in order to

advance its operational objective of securing an appropriate degree of protection for consumers; and (ii) the Firm is failing, or is likely to fail, to satisfy the Suitability Threshold Condition as set out in paragraph 2E of Schedule 6 to the Act.

- 2.2. The Suitability Threshold Condition requires that a firm must be a fit and proper person having regard to all the circumstances including the need to ensure that its affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and whether its 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.
- 2.3. The Authority considers that the Firm has breached and is in breach of Principles 2 and 6 of the Authority's Principles for Business and COBS 2.1.1R. Principle 2 provides that a Firm must conduct its affairs with due skill, care and diligence. Principle 6 provides that a firm must pay due regard to the interests of its customers and treat them fairly. COBS 2.1.1R requires a firm to act honestly, fairly and professionally in accordance with the best interests of its clients.
- 2.4. In particular:
 - i. The Firm is a SIPP operator. It failed to carry out adequate due diligence checks on two EEA introducer firms, INTRODUCER 1 and INTRODUCER 2 prior to accepting business from them. This meant that the Firm failed to identify that neither firm had the appropriate permissions to provide non-insurance based pension advice;
 - ii. The Firm accepted business from INTRODUCER 1 despite being explicitly informed by the Authority that INTRODUCER 1 lacked the appropriate permissions to provide such pension advice;
 - iii. As a result of accepting this business, the Firm's customers were directed to invest their SIPPs in high-risk, illiquid investments through a model portfolio operated by INTRODUCER 1 and INTRODUCER 2. A number of these investments are unregulated collective investment schemes ("UCIS") based overseas, which are unlikely to be suitable for retail clients. A number of these UCIS have since been unable to meet redemption requests for a significant period and / or without explanation. Customers may lose some or all of the money they have invested into these UCIS;
 - iv. The Firm failed to communicate redemption issues relating to the UCIS to its customers in a timely manner.
 - v. In addition, the Firm has declined to write to its customers to fully inform them of the situation and present them with all possible complaint options. These include the right to complain to the Firm itself. INTRODUCER 1 and INTRODUCER 2 are not based in the UK and, in contrast to the Firm, are not subject to the Financial Ombudsman Service's jurisdiction or the Financial Services Compensation Scheme and it is unlikely that UK customers would be INTRODUCTIBLE for equivalent services or schemes in Cyprus and Ireland. As a result, it is likely to be in customers interests to make a complaint against the Firm itself.

3. DEFINITIONS

3.1. The following definitions are used in this Notice:

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

"COBS" means

"INTRODUCER 1" means a firm authorised in the Republic of Ireland; passporting into the UK on an Insurance Distribution Directive (IDD) passport

"the FCA" or "the Authority" means the Financial Conduct Authority;

"the Firm" means DAC Pensions Limited Limited (FRN 774721);

"FOS" means the Financial Ombudsman Service;

"FRN" means firm reference number as recorded in the Financial Services Register;

"FSCS" means the Financial Services Compensation Scheme;

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

"IMD Passport" means Insurance Mediation Directive passport, which permitted a firm to give advice on insurance based products to clients based in another EEA state;

"NMPIs" means non-mainstream pooled investments;

"Non-Standard Assets" means assets which do not meet the definition of standard assets and, as a result, require a SIPP operator to hold greater capital;

"Principle" means one of the Authority's Principles for Businesses;

"Requirements" means the terms imposed on the Firm by this Notice as set out in paragraphs 1.1 and 1.2 above;

"SIPP" means Self-Invested Personal Pensions;

"Standard assets" means assets which are capable of being accurately and fairly valued on an ongoing basis and readily realised within 30 days, whenever required

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

"UCIS" means unregulated collective investment scheme;

"VREQ" means voluntary requirement agreed between the Authority and a firm; and

"INTRODUCER 2" means a firm authorised in Cyprus, passporting into the UK on a MiFID passport.

4. FACTS AND MATTERS

Background

- 4.1. The Firm is a small SIPP operator. The Firm has been authorised by the Authority since 20 September 2017. The Firm has a typical set of permissions for a SIPP operator: to deal in investments as principal, make arrangements, agree to carry on a regulated activity, arrange deals in investments, and establish/operate/wind up a personal pension scheme. The Firm has approximately 697 clients and administers assets of c. £26.7m.
- 4.2. Between December 2017 and July 2019, the Firm accepted approximately 620 new clients from INTRODUCER 1 and INTRODUCER 2.
- 4.3. INTRODUCER 1 is authorised in the Republic of Ireland, and INTRODUCER 2 is authorised in Cyprus. Both these firms were passporting into the UK, but neither INTRODUCER 1 (an Insurance Distribution Directive (IDD) passport) or INTRODUCER 2 (a MiFID passport) had the required top-up permissions to give (non-insurance based) pensions advice in the UK. They were therefore not authorised to give advice to make investments within a SIPP.
- 4.4. On 12 August 2020, Firm informed the Authority that it was administering assets of £20.4m for these clients. Typically, INTRODUCER 1 and INTRODUCER 2 advised clients to transfer their pensions into a SIPP operated by the Firm and to invest in a model portfolio managed by them.
- 4.5. On 24 November 2017, prior to the Firm accepting the first clients from INTRODUCER 1, the Firm's Director, telephoned the Authority's Supervision Hub to ask if INTRODUCER 1 was able to provide pension advice in the UK. The Authority's case officer advised the Firm that INTRODUCER 1 would not be able to provide pension advice in the UK as it only had an IMD passport.
- 4.6. Following this, the Firm asked INTRODUCER 1 to clarify its passporting rights and noted that the FCA Register referred only to insurance mediation. INTRODUCER 1 responded that they were "*investment and insurance intermediaries*", allowed to advise on investments and that they worked "*in line with the MIFID regulations*". It does not appear that the Firm challenged this response, or investigated it further, despite the contrary information contained in the FCA Register and provided by the Authority's Supervision Hub.
- 4.7. The Firm's Introducer Profile and On-Boarding form was completed by INTRODUCER 2 on 12 December 2017. In response to the question: "*do you hold the relevant permissions and advise on Occupational Pension Transfers*", INTRODUCER 2 has answered "*NO*". The form contained no question relating to INTRODUCER 2's permissions for defined contribution pension switches, or whether INTRODUCER 2 had the relevant top-up permission.
- 4.8. On 13 December 2017, the Firm emailed INTRODUCER 2 asking it, among other things, to provide "*clarification of the inward passporting rights that allow your firm to advise UK customers on UK pension products and associated investments (FCA register only refers to investments)*". INTRODUCER 2 responded: "*Pension advice, not limited to pension transfers, falls under the scope of investment advice, in line with EU directives. INTRODUCER 2 is licensed to advise on all financial instruments with no limitation. Personal Pensions are not covered under any specific EU Directive and therefore considered a Financial Instrument covered under MiFID.*"
- 4.9. The Firm does not appear to have challenged INTRODUCER 2 further on this

response or queried why INTRODUCER 2's completed Introducer Profile and On-Boarding form had stated that INTRODUCER 2 did not have the pension transfer permission or clarified whether INTRODUCER 2 had the appropriate pension switch permission.

- 4.10. Because INTRODUCER 1 and INTRODUCER 2 are not authorised by the Authority and did not operate a branch in the UK, consumers do not have recourse to the FOS or the FSCS for the advice received from INTRODUCER 1 and INTRODUCER 2. The Authority's understanding is that these consumers clients cannot access the Cypriot state compensation scheme and, since the advice is not covered by INTRODUCER 1's passport, it is unlikely that consumers would have recourse to the Irish equivalent state financial compensation scheme, although this is not able to be formally confirmed.
- 4.11. Consumers do, however, have recourse to the FOS and FSCS in respect of acts or omissions by the Firm, which could include complaints made in respect of the Firm's failures to undertake adequate due diligence before accepting business from INTRODUCER 1 and INTRODUCER 2 or in respect of accepting business from introducers lacking appropriate permissions.

Investments

- 4.12. The Firm's business plan states that it is a "low-risk standard SIPP provider" with full visibility of client portfolios to monitor the underlying assets and ensure they do not allow any non-standard assets. The supplemental investment agreements the Firm has provided to the Authority suggest that INTRODUCER 1 and INTRODUCER 2 agreed to invest customer funds in standard assets only.
- 4.13. Overseas collective investment schemes need to apply to the Authority for recognition under either section 264 or 272 FSMA. Without such recognition, these assets do not meet the Authority's Handbook definition of a regulated collective investment scheme, making them unregulated collective investment schemes ("UCIS"). UCIS are NMPIs. Under COBS 4.12.3R of the Authority's Handbook, NMPIs cannot be promoted to retail investors. For prudential purposes, these assets are also treated as non-standard under IPRU-INV 5.9.
- 4.14. A firm is required to hold a certain level of capital under capital adequacy requirements. These capital adequacy requirements provide protection to customers in the event of firm failure and assists in facilitating an orderly wind-down and in mitigating customer detriment. Where a firm has SIPPs invested in non-standard assets, the firm's capital adequacy requirement is increased, based on the percentage of schemes holding a non-standard asset. If a firm fails to correctly identify assets as non-standard assets, its capital adequacy calculation will be too low, and so customers are at greater risk in the event of firm failure.
- 4.15. The SIPP Guidance addresses UCIS funds, stating "*UCIS are complex, opaque and risky, and tend to invest in high risk ventures such as films, green energy and overseas property funds. They may not be covered by FOS or FSCS protections. We have stated previously that UCIS are high risk, speculative investments which are unlikely to be suitable for the vast majority of retail customers*". The need for firms to have enhanced procedures for dealing with UCIS firms, and for due diligence is further detailed in the SIPP Guidance.
- 4.16. Investments made for consumers through the arrangements with INTRODUCER 1 and INTRODUCER 2 appear to have included investments in overseas UCIS funds which are non-standard assets. In particular:

- 4.16.1. Two funds domiciled in Luxembourg have been subject to compulsory liquidation by the Luxembourg regulator. On 13 January 2021, the Firm informed the Authority that 397 of its clients were holding £1.353 million in these funds;
- 4.16.2. Three further Cayman Island funds were later switched into and have been delaying redemption requests since December 2019. On 13 January 2021, the Firm informed the Authority that a total of £12.833 million was held by its clients in these funds;
- 4.16.3. On 26 January 2021, two of the three Cayman Island funds that had been delaying redemption issued a notice to shareholders stating that it had suspended all dealing and calculation of net asset values for its funds. This affects £11.445 million of the Firm's client funds.
- 4.17. The effect of this is that consumers have been unable to access or redeem capital from their pension funds for over a year and may have lost some or all of the money they invested in these UCIS.
- 4.18. The Firm does not appear to have informed customers of the redemption delays until September 2020, nine months after the delays began. The Authority's view is that this delay in notification to customers was not in keeping with the principle of treating customers fairly, and that customers ought to have been notified within a month of the first redemption delays, in late January 2020, since this provided a reasonable timeframe for the Firm to complete a communication exercise within.
- 4.19. The Firm failed to follow its stated business model by operating SIPPs which contain significant investments in non-standard assets. This creates a risk for consumers who may have been directed and permitted to invest in assets which are high-risk and illiquid and which are likely to be unsuitable for retail consumers. It appears that the Firm also failed to recognise the investments as non-standard assets and incorrectly categorised them as standard.
- 4.20. On 12 November 2020, the Firm informed the Authority that due to an "administrative oversight" the fund administrator had not registered the Luxembourg funds with the Authority. Funds not registered with the Authority do not have FSCS protection if they fail, therefore increasing the risk to consumers.
- 4.21. The nature of these investments, and the difficulties with redemptions, mean that it is likely that these consumers have cause for complaint. Funds can be non-redeeming or illiquid for many years without the investment fund entering into administration. It could therefore be many years before the funds could be liquidated and customers able to receive their funds if customers wait and do not make a complaint to the Firm. Since INTRODUCER 1 and INTRODUCER 2 are not authorised persons in the UK, and did not operate a UK branch these consumers are unlikely to have recourse to either the FOS or to the FSCS for complaints about INTRODUCER 1 or INTRODUCER 2.
- 4.22. The Firm has failed to conduct adequate due diligence on the underlying investments to identify the investments as UCISs or identified the risks to consumers resulting from this. These failures have exposed consumers to greater risk of loss.

Engagement with Supervision

- 4.23. In September 2018, Supervision requested information from the Firm in respect of overseas consumers and defined benefit pension transfers, including a request for

the Firm's new business register. This contact was followed up in June 2019, when Supervision requested the Firm explain its approach to incoming EEA firms providing pensions advice in the UK. The Firm responded that it no longer accepted business from incoming EEA firms.

- 4.24. In August 2019, Supervision asked the Firm about the due diligence performed on incoming EEA firms. On 30 August 2019, the Firm responded that pension switches fell under the scope of investment advice and could therefore be passported into the UK through EU directives. This was despite the Firm having information on both INTRODUCER 1 and INTRODUCER 2 in 2017 that this was not the case. The Firm had been explicitly informed by the Supervision Hub on 24 November 2017, prior to the Firm accepting business from INTRODUCER 1, that INTRODUCER 1 did not have the appropriate permissions to provide advice on pensions transfer. INTRODUCER 2's Introducer Profile provided to the Firm on 12 December 2017 had stated that INTRODUCER 2 did not hold the relevant permissions for occupational transfers. On 4 October 2019, Supervision informed the Firm that the Firm's response was incorrect and that incoming EEA firms needed a top-up permission from the Authority to provide advice on pension transfers, switches or changes to the underlying investments in respect of trust-based SIPPs. On 18 October 2019, the Firm reiterated that it was no longer accepting instructions or new business from overseas advisers.
- 4.25. Between January 2020 and July 2020, Supervision was engaged with the Firm on other matters. In July 2020, Supervision asked specific questions relating to the due diligence undertaken on INTRODUCER 1 and INTRODUCER 2. In August 2020, the Firm accepted its due diligence did not specifically include checking for top-up permissions.
- 4.26. On 26 June 2020, the Firm submitted its FIN071 capital adequacy return for the quarter ending 31 May 2020. The fraction of its plans holding non-standard assets had increased to 82%, from 0% in the previous return. Supervision raised this with the Firm. On 2 September 2020, the Firm informed Supervision that this change in classification of assets was due to the delays in redemptions for the INTRODUCER 1 and INTRODUCER 2 portfolios. On 11 September 2020, due to the significant increase in non-standard assets, Supervision asked the Firm to sign a VREQ requiring the Firm to retain its assets. This was signed on 15 September 2020.
- 4.27. Despite being engaged with Supervision on other matters between January 2020 and September 2020, the Firm failed to raise the issue in relation to redemption delays with the Authority or customers during this period, despite the fact it would clearly have known about the redemption delays and should have communicated this. The responsibility for understanding the Firm's holdings, and informing customers of any issues with them in a reasonable time frame rests with the Firm and its Directors.
- 4.28. On 21 October 2020, Supervision asked the Firm to stop accepting new business, due to Supervision's concerns about the Firm's systems and controls. The Firm agreed, initially through an undertaking and then by signing a voluntary requirement on 18 November 2020.
- 4.29. On 16 November 2020, Supervision also asked the Firm to undertake a voluntary customer contact exercise to make customers aware they could complain to the Firm for due diligence failings. The Firm declined to take this approach and suggested the Authority should require the Firm to do this.

- 4.30. On 18 December 2020, Supervision therefore invited the Firm to apply for a VREQ, requiring the Firm to write to all clients introduced by INTRODUCER 1 and INTRODUCER 2 to the Firm and inform them that:
- 4.30.1.the Firm should not have accepted this business because INTRODUCER 1 and INTRODUCER 2 did not have permissions to provide pension advice;
 - 4.30.2.their recourse to the FOS and / or the FSCS for INTRODUCER 1 and INTRODUCER 2's advice was doubtful; and that
 - 4.30.3.customers may complain to the Firm about the firm's due diligence failings.
- 4.31. On 15 January 2021, the Firm declined the Authority's invitation to apply for a VREQ to conduct a client contact exercise in the terms sought by the Authority. The Firm indicated that it was willing to write to consumers informing them INTRODUCER 1 and INTRODUCER 2 did not have the appropriate permissions, and inviting consumers to make complaints to INTRODUCER 1 and INTRODUCER 2. However, the Firm's proposed communication to customers did not include any acknowledgement of its own failings in due diligence, or to present the option to customers of raising complaints against the Firm itself. There is recourse to the FOS where customers have suffered loss or detriment as a result of for acts or omissions by a firm, and they have not been satisfied by that firm's response, or to the FSCS where a firm has been declared in default. The Firm has not been declared in default by the FSCS. However, the Authority INTDUCER 1eves that the Firm's proposed letter to consumers falls short of protecting consumer interests, by failing to explain all options available and failing to set out the option most likely to result in compensation to consumers.
- 4.32. On 27 April 2021, the Authority issued a First Supervisory Notice imposing requirements on the Firm. On 13 May 2021, the Firm contacted the Authority to request an extension to the deadline to provide representations to the Regulatory Transactions Committee to 26 May 2021. This request was approved. The Firm provided its representations on 26 May 2021.
- 4.33. In its representations, the Firm put forward a revised letter to issue to its clients. The Authority did not consider this revised letter to be an appropriate substitute to the letter it was required to send by the Authority for the following reasons:
- 4.33.1.it does not appropriately describe the acts and omissions of the Firm in accepting business from INTRODUCER 1 and/or INTRODUCER 2; and
 - 4.33.2.it insufficiently highlights the potential risk of harm to its clients from the investments they now hold with their SIPPs, including that they are unregulated collective investment schemes (UCIS) and that they may lose all of the pension money they have invested if certain funds do not reopen for redemptions.
- 4.34. As of 1 June 2021, the Firm had not provided the Authority with the client details or confirmation that it has sent the letter as required by 25 and 26 May 2021. The Authority decided to vary the Requirements set out in the First Supervisory Notice dated 27 April 2021 through a further First Supervisory Notice dated 1 June 2021 in order that the deadline for compliance with the Requirements did not fall before the deadline by which the Firm can make representations to the Authority. The 1 June 2021 notice set a deadline of 16 June 2021 to comply the Requirements.
- 4.35. On 15 June 2021, the Firm contacted the Authority to explain that after considering its financial position (as well as the composition of its client book and the Authority's requirement to inform customers of their cause for complaint) it had appointed professional advisers to place the company into liquidation. On 1 July 2021, the Firm applied to vary the Requirement by submitting a new letter that covered the

issues set out in this Notice, as well as the Firm's next steps upon entering liquidation. The Authority considers it appropriate that the Firm's customers receive a single letter covering these issues.

5 FAILINGS AND RISKS TO OPERATIONAL OBJECTIVES

5.1 The regulatory provisions relevant to this Notice are set out in the Annex.

Exercise of due skill, care and diligence

5.2 Principle 2 of the Authority's Principles for Business requires a firm to conduct its business with due skill, care and diligence. COBS 2.1.1R of the Authority's Handbook requires a firm to act honestly, fairly and professionally in accordance with the best interests of its clients.

5.3 The Authority's expectations for SIPP operators were published in guidance on 8 October 2013 ("the SIPP Guidance"), following a thematic review. This identified that examples of good practice for SIPP operators included: "*confirming, both initially and on an ongoing basis, that:*

5.3.1 "*introducers that advise clients are authorised and regulated by the FCA; that they have the appropriate permissions to give the advice they are providing*";

5.3.2 "*understanding the nature of the introducers' work to establish the nature of the firm, what their business objectives are, the types of clients they deal with, [...] the types of investments they recommend*" and

5.3.3 "*being able to identify [...] higher risk investments such as unquoted shares*".

5.4 The SIPP Guidance outlined the Authority's expectations of the due diligence a SIPP operator should carry out: "*Principle 2 of the FCA's Principles for Business requires all firms to conduct their business with due skill, care and diligence. All firms should ensure that they conduct and retain appropriate and sufficient due diligence (for example checking and monitoring introducers as well as assessing that investments are appropriate for personal pension schemes) to help them justify their business decisions. In doing this SIPP operators should consider [...]:*

5.4.1 "*having checks which may include but are not limited to: ensuring that introducers have the appropriate permissions, qualifications and skills to introduce different types of business to the firm*".

5.5 The Firm has failed to conduct its affairs with the exercise of due skill, care and diligence in its accepting of business from INTRODUCER 1 and INTRODUCER 2, by:

- i. Failing to obtain adequate due diligence material, or to assess it, prior to accepting business from INTRODUCER 1 and INTRODUCER 2;
- ii. Disregarding information provided by the Authority which indicated that INTRODUCER 1 did not have the appropriate permissions to provide advice; and

- iii. Failing to conduct basic due diligence on the underlying investments customers SIPPs were being invested into. As a result, it failed to identify that the investments that consumers were switched into were high risk and illiquid, and highly unlikely to be suitable for retail customers.

Treating customers fairly

5.6 Principle 6 of the Authority's Principles for Business requires a firm to pay due regard to the interests of its customers and treat them fairly. All firms, regardless of whether they do or do not provide advice must meet Principle 6 and treat customers fairly. COBS 3.2.3(2) is clear that a member of a pension scheme is a 'client' for SIPP operators and so is a customer under Principle 6.

5.7 The Firm has breached and is breaching Principle 6 as it has failed and is failing to pay due regard to the interests of customers and treat them fairly in accepting business from INTRODUCER 1 and INTRODUCER 2 and in its communications with customers. In particular, the Firm has:

- i. Failed to identify that INTRODUCER 1 and INTRODUCER 2 lacked the appropriate permissions to give advice before accepting customers from them, with the result that customers accepted from them are unlikely to have recourse to FOS and FSCS protection in respect of the advice given by INTRODUCER 1 and INTRODUCER 2;
- ii. Failed to identify that investments made for customers may be high risk and illiquid, and are likely to be unsuitable for retail customers;
- iii. Failed to inform customers that some of the investments have failed to redeem within an appropriate timeframe; and
- iv. Failed to inform customers of all possible routes to complaint, including the option of making a complaint against the Firm, with the result that customers have not been informed of the complaint option most likely to result in the payment of redress in the event that any complaint is upheld.

Suitability threshold condition

5.8 It further appears to the Authority that the Firm is failing, or likely to fail, to satisfy the suitability threshold condition, that a firm must be a fit and proper person having regard to all the circumstances – including the need to ensure that its affairs are conducted in an appropriate manner, having regard in particular to the interests of consumers and whether its 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 – on the basis of that it appears to the Authority that:

- i. The Firm failed to adequately assess the suitability of its two introducers prior to accepting business from them;
- ii. The Firm failed to act appropriately upon information received from the Authority which suggested that INTRODUCER 1 did not have the appropriate permissions to provide advice to consumers;
- iii. The Firm failed to identify that the investments that consumers were switched into were high risk and illiquid, and highly unlikely to be suitable

for retail customers;

- iv. The Firm failed to inform customers within a reasonable timeframe of the issues with redemption from investments;
- v. The Firm failed to ensure that its onboarding of INTRODUCER 1 and INTRODUCER 2 was conducted appropriately and with regards to the interests of consumers, in breach of COND 2.5.1A(c);
- vi. The Firm failed to act in customers' best interests by failing to inform them of their full range of complaint options, including failing to provide them with the opportunity to complain to the Firm which is the route most likely to result in redress;
- vii. The Firm failed to comply with the Authority's request that it inform customers fully of their complaint options, in breach of COND 2.5.1A(d);
- viii. The Firm's inability to demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.

5.9 As set out above, the Firm's actions have caused it to breach Principles 2 and 6, and COBS 2.1.1R.

5.10 The Authority believes it is in the interests of customers that they are informed of the position and of their options for complaints. The illiquid nature of the investments mean that customers cannot currently redeem them. In addition, the unsuitable and high-risk nature of the investments increase the risks to customers. It is also possible that they may lose money. These customers are likely to have cause for complaint in respect of the investments, so it is important that they are presented with all possible options for lodging those complaints, including the route which is most likely to result in redress, through the Firm.

Proportionality of the action

5.11 The Authority has engaged with the Firm regarding communications with its customers. The Firm's proposal has the effect of directing impacted customers to complain to INTRODUCER 1 and INTRODUCER 2 in circumstances where customers will not have recourse to the FOS or FSCS in respect of those firms and may not be eligible for redress / compensation schemes in those firms' home countries. This is unlikely to be in UK customers' best interests where potential avenues for complaint / redress exist in the UK.

5.12 When this was raised with the Firm, it declined to amend its proposed communication to inform its customers of their right to complain directly to the Firm or inform them that it should not have taken on pensions business from INTRODUCER 1 or INTRODUCER 2. In the circumstances, the Authority therefore considers it appropriate to prescribe the manner and form in which the Firm communicates to its customers and their options.

5.13 The requirements ask the Firm to confirm existing facts to its customers, and the contact exercise will take the Firm only a short amount of time and use limited resources. The impact will be that it could save customers significant delays and difficulties, and reduce the risk of customer detriment.

5.14 The Authority considers that taking this action is desirable to further its consumer protection objective and the Requirements are appropriate and proportionate.

6 PROCEDURAL MATTERS

Competition Act 1998

- 6.1 In accordance with section 234K of the Act, the Authority has considered whether it would be more appropriate to proceed under the Competition Act 1998, and is satisfied that it would not be.

Decision-maker

- 6.2 The decision which gave rise to the obligation to give this Second Supervisory Notice was made by the chair of the Regulatory Transactions Committee. This Second Supervisory Notice is given under section 55Y(7)(a). Section 393 of the Act does not apply to this Notice.
- 6.3 The following statutory rights are important.

The Tribunal

- 6.4 The Firm has the right to refer the matter to which this Second Supervisory Notice relates to the Tribunal, which considers 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 Second Supervisory Notice is given to it to refer the matter to the Tribunal.
- 6.5 A reference to the Tribunal can be made by way of a reference notice (Form FTC3) signed by the Firm and filed with a copy of the Notice. The Tribunal's contact details are: Upper Tribunal (Tax and Chancery Chamber), 5th Floor, Rolls Building, Fetter Lane, London EC4A 1NL (telephone: 020 7612 9700; email: uttc@justice.gov.uk)
- 6.6 Further details are contained in "Making a Reference to the Upper Tribunal (Tax and Chancery Chamber)" which is available from the Tribunal website: <http://formfinder.hmctsformfinder.justice.gov.uk/t400-eng.pdf>
- 6.7 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 Regulatory Transactions Committee Secretariat at the Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN.

Confidentiality and publicity

- 6.8 The Firm should note that this Second 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).
- 6.9 The Firm should note that section 391 of the Act requires the Authority, when this Second Supervisory Notice takes effect (and this Second Supervisory Notice takes immediate effect), to publish such information about the matter to which the notice relates as it considers appropriate.

Authority contacts

- 6.10 For more information concerning this matter generally, contact Matthew Longland, 020 7066 6254 / email: matthew.longland@fca.org.uk).
- 6.11 Any questions regarding the procedures of the Regulatory Transactions Committee should be directed to the Regulatory Transactions Committees Secretariat by email:

RTCSecretariat@fca.org.uk.

Annex 1 - Letters

Letter for INTRODUCER 1 customers (advised)

Dear (insert client name)

IMPORTANT INFORMATION ABOUT YOUR PENSION

We have been required by our regulator, the Financial Conduct Authority (FCA), to write to you about your pension and the advice you received from INTRODUCER 1. INTRODUCER 1 has traded as [...]

We made a mistake when we accepted business from INTRODUCER 1. We have explained below what has happened and the consequences of this.

Unauthorised pensions advice

INTRODUCER 1 was authorised in the Republic of Ireland. It gave you advice and moved your pension to DAC Pensions Limited (DAC). INTRODUCER 1 was not authorised to give pension advice to you in the UK. It needed to get permission from and be regulated by the FCA to do this, which it did not do.

As your pension provider, we should have ensured that INTRODUCER 1 had the correct permissions. Because INTRODUCER 1 did not have the correct permissions, we should have not accepted your pension from them.

Unregulated investments

INTRODUCER 1 has made investments for you in funds that are based outside the UK (Model Portfolio). These funds are unregulated collective investments (UCIS) which are not regulated by the FCA and in most cases are not suitable for ordinary investors. Some of these funds have not been returning investors' money when requested since December 2019 and you may lose the money you have invested in these funds if they do not reopen for withdrawals.

Liquidation

As a result of accepting this business, the FCA has required DAC to write to you about these issues and inform you of your right to complain. We would be liable to pay redress to affected customers with valid complaints, but DAC would not be able to meet these redress liabilities. We have been advised by our professional advisers, Quantuma Advisory Limited (Quantuma), that DAC should now be placed into liquidation and wound up.

What this means for you

We set out below some of the next steps and what this means for your pension:

1. We have informed your financial adviser of the circumstances and they will be writing to you to ensure that the process is clear to you and to answer any questions you may have. You can also access information from the Money & Pensions Service website:
<https://moneyandpensionservice.org.uk/>
2. You will shortly be contacted by the nominated firm of Insolvency Practitioners, Quantuma, who will provide a detailed summary of the liquidation process. This will contain a set of frequently asked questions which will help explain any actions you need to take.

3. We will instruct the full cancellation of your Model Portfolio and all assets will be sold and returned to cash. The delays to redemptions mentioned earlier means this process could take some time. We aim to post regular updates on our website to keep you informed.

4. Your financial adviser will recommend a new pension provider for you and guide you through the process of setting it up.

5. We will then make a cash transfer from your pension with DAC to your new pension provider once all assets have been sold under your Model Portfolio. We may be able to make payments to your new provider in stages if your pension is not already in drawdown. Your financial adviser will keep you updated on progress.

6. You may be due compensation– please see Complaints below for more information.

Contributions to your pension

If you are making contributions to your pension with DAC, please stop the payments immediately and speak to your financial adviser about directing them to your new pension provider. We may not be able to claim the tax relief you are entitled to if you do not stop the payments.

Payment of pensions and tax-free lump sums

If you have already started to take a taxable income from your pension, you may continue with this if sufficient cash is available in your account. We will operate the pension payroll on a quarterly basis, starting from 30 July 2021, and you must contact us 2 weeks before each payroll run to confirm your requirements.

We will not be able to accept any new requests for tax-free lump sums until sufficient cash has been returned from asset sales within your Model Portfolio.

Complaints

We should not have accepted your pension and you have a right to complain to us. However, as DAC is to be placed into liquidation and declared in default, the steps you need to follow if you have a complaint have changed.

DAC is covered by the Financial Services Compensation Scheme (FSCS). The FSCS protects consumers when authorised firms fail and can pay compensation of up to £85,000. As such, once the FSCS declares DAC to be in default, you should make a claim to the FSCS for any losses incurred with your pension as a result of moving it to DAC. You will be given more details about this from Quantuma.

FSCS is an independent service free to use and you will keep all the compensation you are owed when you claim directly through FSCS. Full information can be found at the FSCS website www.fscs.org.uk.

Existing complaints

If you have already complained to DAC or the Financial Ombudsman Service, you do not need to take any further steps. The Insolvency Practitioner will pass your details on to the Financial Services Compensation Scheme on your behalf.

Next steps

You will shortly be receiving important information from both the nominated Insolvency Practitioner, Quantuma, and from your financial adviser

Yours sincerely

Letter for INTRODUCER 1 customers (non-advised)

Dear (insert client name)

IMPORTANT INFORMATION ABOUT YOUR PENSION

We have been required by our regulator, the Financial Conduct Authority (FCA), to write to you about your pension and the advice you received from INTRODUCER 1. INTRODUCER 1 has traded as [...]

We made a mistake when we accepted business from INTRODUCER 1. We have explained below what has happened and the consequences of this.

Unauthorised pensions advice

INTRODUCER 1 was authorised in the Republic of Ireland. It gave you advice and moved your pension to DAC Pensions Limited (DAC). INTRODUCER 1 was not authorised to give pension advice to you in the UK. It needed to get permission from and be regulated by the FCA to do this, which it did not do.

As your pension provider, we should have ensured that INTRODUCER 1 had the correct permissions. Because INTRODUCER 1 did not have the correct permissions, we should have not accepted your pension from them.

Unregulated investments

INTRODUCER 1 has made investments for you in funds that are based outside the UK (Model Portfolio). These funds are unregulated collective investments (UCIS) which are not regulated by the FCA and in most cases are not suitable for ordinary investors. Some of these funds have not been returning investors' money when requested since December 2019 and you may lose the money you have invested in these funds if they do not reopen for withdrawals.

Liquidation

As a result of accepting this business, the FCA has required DAC to write to you about these issues and inform you of your right to complain. We would be liable to pay redress to affected customers with valid complaints, but DAC would not be able to meet these redress liabilities. We have been advised by our professional advisers, Quantuma Advisory Limited (Quantuma), that DAC should now be placed into liquidation and wound up.

What this means for you

We set out below some of the next steps and what this means for your pension:

1. We strongly recommend that you appoint a financial adviser to review your pension and discuss your options. You can find an adviser by using this online service: <https://www.unbiased.co.uk/> You can also access information from the Money & Pensions Service website: <https://moneyandpensionsservice.org.uk/>

2. You will shortly be contacted by the nominated firm of Insolvency Practitioners, Quantuma, who will provide a detailed summary of the liquidation process. This will contain a set of frequently asked questions which will help explain any actions you need to take.

3. We will instruct the full cancellation of your Model Portfolio and all assets will be sold and returned to cash. The delays to redemptions mentioned earlier means this process could take some time. We aim to post regular updates on our website to keep you informed.

4. A new financial adviser will be able to recommend a new pension provider for you and guide you through the process of setting it up. Alternatively, you could select your own pension provider.

5. We will then make a cash transfer from your pension with DAC to your new pension provider once all assets have been sold under your Model Portfolio. We may be able to make payments to your new provider in stages if your pension is not already in drawdown. We will keep you updated on progress.

6. You may be due compensation– please see Complaints below for more information.

Contributions to your pension

If you are making contributions to your pension with DAC, please stop the payments immediately. We may not be able to claim the tax relief you are entitled to if you do not stop the payments.

Payment of pensions and tax-free lump sums

If you have already started to take a taxable income from your pension, you may continue with this if sufficient cash is available in your account. We will operate the pension payroll on a quarterly basis, starting from 30 July 2021, and you must contact us 2 weeks before each payroll run to confirm your requirements.

We will not be able to accept any new requests for tax-free lump sums until sufficient cash has been returned from asset sales within your Model Portfolio.

Complaints

We should not have accepted your pension and you have a right to complain to us. However, as DAC is to be placed into liquidation and declared in default, the steps you need to follow if you have a complaint have changed.

DAC is covered by the Financial Services Compensation Scheme (FSCS). The FSCS protects consumers when authorised firms fail and can pay compensation of up to £85,000. As such, once the FSCS declares DAC in default, you should make a claim to the FSCS for any losses incurred with your pension as a result of moving it to DAC. You will be given more details about this from Quantuma.

FSCS is an independent service free to use and you will keep all the compensation you are owed when you claim directly through FSCS. Full information can be found at the FSCS website www.fscs.org.uk.

Existing complaints

If you have already complained to DAC or the Financial Ombudsman Service, you do not need to take any further steps. The Insolvency Practitioner will pass your details on to the Financial Services Compensation Scheme on your behalf.

Next steps

You will shortly be receiving important information from both the nominated Insolvency Practitioner, Quantuma, and we encourage you to speak with a financial adviser at the earliest opportunity.

Yours sincerely

Letter for INTRODUCER 2 customers (advised only)

Dear (insert client name)

IMPORTANT INFORMATION ABOUT YOUR PENSION

We have been required by our regulator, the Financial Conduct Authority (FCA), to write to you about your pension and the advice you received from INTRODUCER 2. INTRODUCER 2 has traded as [...]

We made a mistake when we accepted business from INTRODUCER 2. We have explained below what has happened and the consequences of this.

Unauthorised pensions advice

INTRODUCER 2 is authorised in Cyprus. It gave you advice and moved your pension to DAC Pensions Limited (DAC). INTRODUCER 2 was not authorised to give pension advice to you in the UK. It needed to get permission from and be regulated by the FCA to do this, which it did not do.

As your pension provider, we should have ensured that INTRODUCER 2 had the correct permissions. Because INTRODUCER 2 did not have the correct permissions, we should have not accepted your pension from them.

Unregulated investments

INTRODUCER 2 has made investments for you in funds that are based outside the UK (Model Portfolio). These funds are unregulated collective investments (UCIS) which are not regulated by the FCA and in most cases are not suitable for ordinary investors. Some of these funds have not been returning investors' money when requested since December 2019 and you may lose the money you have invested in these funds if they do not reopen for withdrawals.

Liquidation

As a result of accepting this business, the FCA has required DAC to write to you about these issues and inform you of your right to complain. We would be liable to pay redress to affected customers with valid complaints, but DAC would not be able to meet these redress liabilities. We have been advised by our professional advisers, Quantuma Advisory Limited (Quantuma), that DAC should now be placed into liquidation and wound up.

What this means for you

We set out below some of the next steps and what this means for your pension:

1. We have informed your financial adviser of the circumstances and they will be writing to you to ensure that the process is clear to you and to answer any questions you may have. You can also access information from the Money & Pensions Service website:

<https://moneyandpensionservice.org.uk/>

2. You will shortly be contacted by the nominated firm of Insolvency Practitioner, Quantuma, who will provide a detailed summary of the liquidation process. This will contain a set of frequently asked questions which will help explain any actions you need to take.

3. We will instruct the full cancellation of your Model Portfolio and all assets will be sold and returned to cash. The delays to redemptions mentioned earlier means this process could take some time. We aim to post regular updates on our website to keep you informed.

4. Your financial adviser will recommend a new pension provider for you and guide you through the process of setting it up.

5. We will then make a cash transfer from your pension with DAC to your new pension provider once all assets have been sold under your Model Portfolio. We may be able to make payments to your new provider in stages if your pension is not already in drawdown. Your financial adviser will keep you updated on progress.

6. You may be due compensation– please see Complaints below for more information.

Contributions to your pension

If you are making contributions to your pension with DAC, please stop the payments immediately and speak to your financial adviser about directing them to your new pension provider. We may not be able to claim the tax relief you are entitled to if you do not stop the payments.

Payment of pensions and tax-free lump sums

If you have already started to take a taxable income from your pension, you may continue with this if sufficient cash is available in your account. We will operate the pension payroll on a quarterly basis, starting from 30 July 2021, and you must contact us 2 weeks before each payroll run to confirm your requirements.

We will not be able to accept any new requests for tax-free lump sums until sufficient cash has been returned from asset sales within your Model Portfolio.

Complaints

We should not have accepted your pension and you have a right to complain to us. However, as DAC is to be placed into liquidation and declared in default, the steps you need to follow if you have a complaint have changed.

DAC is covered by the Financial Services Compensation Scheme (FSCS). The FSCS protects consumers when authorised firms fail and can pay compensation of up to £85,000. As such, once the FSCS declares DAC to be in default, you should make a claim to the FSCS for any losses incurred with your pension as a result of moving it to DAC. You will be given more details about this from Quantuma.

FSCS is an independent service free to use and you will keep all the compensation you are owed when you claim directly through FSCS. Full information can be found at the FSCS website www.fscs.org.uk.

Existing complaints

If you have already complained to DAC or the Financial Ombudsman Service, you do not need to take any further steps. The Insolvency Practitioner will pass your details on to the Financial Services Compensation Scheme on your behalf.

Next steps

You will shortly be receiving important information from both the nominated Insolvency Practitioner, Quantuma, and from your financial adviser.

Yours sincerely

Annex 2

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 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).
5. 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.”
6. Section 59(1) of the Act provides that:
“an authorised person must take reasonable care to ensure that no person performs a controlled function under an arrangement entered into by the authorised person in relation to the carrying on by the authorised person of a regulated activity, unless that person is acting in accordance with an approval given by the appropriate regulator under this section”.

RELEVANT REGULATORY PROVISIONS

The threshold conditions

7. 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.

Suitability threshold condition

8. The suitability threshold condition, at paragraph 2E of Part 1B of Schedule 6 to the Act, 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:

"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;
- (g) the need to minimise the extent to which it is possible for the business carried on by A, or to be carried on by A, to be used for a purpose connected with financial crime."

COND

9. COND 2.5.1A on suitability, states that a firm must be a fit and proper person having regard to all the circumstances, including -

- (a) The firm's connection with any person;
- (b) The nature (including the complexity) of any regulated activity that the firm carries on or seeks to carry on;
- (c) The need to ensure that the firm'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 the firm 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 the firm has so complied or is so complying, the manner of that compliance;
- (e) Whether those who manage the firm's affairs have adequate skills and experience and act with probity;
- (f) Whether the firm'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; and

(g) The need to minimise the extent to which it is possible for the business carried on by the firm, or to be carried on by the firm, to be used for a purpose connected with financial crime.

10. 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, and include, but are not limited to, whether the firm:

(a) conducts, or will conduct, its business with integrity and in compliance with proper standards;

(b) has, or will have, a competent and prudent management; and

(c) can demonstrate that it conducts, or will conduct, its affairs with the exercise of due skill, care and diligence.

11. COND 2.5.6G provides examples of the 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 include, but are not limited to, whether:

(1) the firm has been open and co-operative in all its dealings with the Authority and any other regulatory body (see Principle 11 (Relations with regulators)) and is ready, willing and organised to comply with the requirements and standards under the regulatory system (such as the detailed requirements of SYSC [...])

1A) the firm has made arrangements to put in place an adequate system of internal control to comply with the requirements and standards for which the Authority is responsible under the regulatory system; ...

PRIN

12. Principle 2: A firm must conduct its business with due skill, care and diligence.

13. Principle 3: A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

14. Principle 6: A firm must pay due regard to the interests of its consumers and treat them fairly.

COBS

15. COBS 2.1.1R: A firm must act honestly, fairly and professionally in accordance with the best interests of its client.

16. COBS 4.12.3R: A firm must not communicate or approve an invitation or inducement to participate in, acquire, or underwrite a non-mainstream pooled investment where that invitation or inducement is addressed to or disseminated in such a way that it is likely to be received by a retail client.

The Enforcement Guide

17. 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.

18. 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)).
19. 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)).
20. 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)).
21. 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.
22. 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.
23. 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.
24. 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, these include:
 - (1) The extent of any loss, or risk of loss, or other adverse effect on consumers The more serious the loss or potential loss of other adverse effect, the more likely it is that the FCA's urgent exercise of its own-initiative powers will be appropriate, to protect the consumers' interests.

(4) The seriousness of any suspected breach of the requirements of the legislation or the rules and the steps that need to be taken to correct that breach.

(8) The firm's conduct. The FCA will take into account:

(a) whether the firm identified the issue (and if so whether this was by chance or as a result of the firm's normal controls and monitoring);

(b) whether the firm brought the issue promptly to the FCA's attention;

(c) the firm's past history, management ethos and compliance culture;

(d) steps that the firm has taken or is taking to address the issue.

25. 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.