

Warning Notice Statement 23/2

- 1.1 The Financial Conduct Authority (the FCA) gave an individual a warning notice on 6 March 2023 proposing to take action in respect of the conduct summarised in this statement.

IMPORTANT: A warning notice is not the final decision of the FCA. The individual has the right to make representations to the Regulatory Decisions Committee (RDC) which, in the light of those representations, will decide on the appropriate action and whether to issue a decision notice. The RDC is a Committee of the FCA board which decides whether the FCA should give certain statutory notices described as within its scope by the FCA's Handbook.

If a decision notice is issued, the individual has the right to refer the matter to the Upper Tribunal which would reach an independent decision on the appropriate action for the FCA to take, if any.

If either the RDC or the Upper Tribunal decides that no further action should be taken, the FCA will publish a notice of discontinuance provided it has the individual's consent.

- 1.2 The following is a summary of the reasons why the FCA gave the individual a warning notice:
- The FCA considers that the individual, who was a director of a firm, breached Principles 1 and 7 of the FCA's Statements of Principle for Approved Persons when carrying out their controlled functions in connection with the firm's defined benefit pension transfer business between 3 January 2015 and 22 June 2017 (the Relevant Period).
- 1.3 In particular, the FCA considers that, during the Relevant Period, the individual demonstrated a lack of integrity by:
- recklessly permitting the firm's Appointed Representative to continue using a two-adviser advice model under the responsibility of the firm whereby, in giving pension transfer advice, the Appointed Representative did not take into account the separate investment advice given by another firm, despite being aware of the red flag warnings raised by the firm's external compliance consultant in respect of the deficiencies in the model and despite raising concerns with the Appointed Representative that it was non-compliant; and
 - dishonestly providing the FCA with a copy of the Appointed Representative Agreement between the firm and its Appointed Representative, which they had backdated to create the false impression that an agreement had been in place from the date that the Appointed Representative was initially appointed.

- 1.4 The FCA also considers that the individual failed to take reasonable steps to ensure that the firm complied with the relevant requirements and standards of the regulatory system. In particular, they:
- failed to ensure that the firm's Appointed Representative implemented adequate checks to ensure that at the fact-finding stage they gathered all necessary information regarding the customer, including details of their financial situation, investment and specific retirement objectives, and attitude to risk;
 - failed to ensure that personal recommendations met the customer's information needs and were clear, fair and not misleading; and
 - failed to ensure that personal recommendations explained adequately why the pension transfer was suitable for the customer.
- 1.5 The FCA considers that the individual's conduct amounts to a failure to comply with regulatory requirements aimed at ensuring that customers received suitable advice and were treated fairly.