

Warning Notice Statement 23/3

- 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, whilst trading as a sole-trader firm that was an Appointed Representative of a Principal firm, breached Statements of Principle 1 and 2 of the FCA's Statements of Principle for Approved Persons when carrying out their controlled functions in connection with the Principal 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 disregarding red flag warnings that the two-adviser advice model they operated was non-compliant because in giving pension transfer advice they did not take into account the separate investment advice given by another firm; and
 - dishonestly signing an Appointed Representative Agreement between their sole-trader firm and the Principal firm, which they knew had been backdated, knowing that it was to be provided to the FCA to create the false impression that an agreement had been in place from the date that their sole-trader firm had become an Appointed Representative of the Principal firm.

1.4 The FCA also considers that the individual failed to act with due skill, care and diligence in providing pension transfer advice. In particular, they:

- failed to communicate information to customers in a way which was clear, fair and not misleading, such that customers were not placed in an adequately informed position from which to make a decision to transfer;
- used generic standardised reasons that were not sufficiently tailored to the customer, in purporting to explain why a recommendation to transfer out of a defined benefit pension scheme was suitable;
- failed 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 properly assess, on the basis of the information obtained, or give due consideration to, the customer's financial situation, their retirement needs and whether they could financially bear the risks associated with the pension transfer;
- failed to properly assess whether the pension transfer that was recommended met the customer's specific objectives and was therefore suitable;
- failed to ensure that the personal recommendation met the customer's information needs and was clear, fair and not misleading; and
- failed to ensure that the personal recommendation 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 pension transfer advice and were treated fairly.