Warning Notice Statement 23/4

1.1 The Financial Conduct Authority (the FCA) gave the following individual a warning notice on 10 February 2023 proposing to take action in respect of the conduct summarised in this statement. The notice concerns the conduct of an individual (Individual A) who worked as a financial adviser whilst an approved person at a small financial advice firm (Firm A).

> **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.
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> 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.
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> 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 Individual A a warning notice:

- The FCA considers that Individual A breached Principle 2 of the FCA's Statements of Principle for Approved Persons when carrying out their controlled function (CF30) whilst working at Firm A.
- The conduct took place between 16 March 2017 and 14 December 2017 (the Relevant Period). Individual A provided defined benefit transfer advice to customers of the Firm, including members of the British Steel Pension Scheme. The FCA consider that the individual's approach to the advice given to defined benefit transfer customers was not compliant with the rules and principles governing this area of advice.

1.3 In particular, the FCA considers that, during the Relevant Period:

- Individual A based their recommendation on the flawed assumption that a transfer to meet a customer's stated objectives was in the customer's best interests when these objectives were not viable or could have been achieved by means other than transfer of their pension with valuable guarantees.

- Individual A did not properly consider customers' financial situation, and therefore the degree of reliance on the fund and whether they could bear the risk, when assessing whether it was suitable for them to transfer out of their Defined Benefit Pension Scheme.

- Individual A failed properly to assess whether the customer had the necessary experience and knowledge to understand the risks involved in the Pension Transfer recommended and failed to give due consideration to this where they did not.

- Individual A did not undertake adequate transfer analysis, comparing the benefits of the ceding and proposed schemes. Analysis contained errors which gave a misleading picture as to how the schemes compared which meant the customer was not presented with accurate information. Where comparisons were accurate, the level of growth required did not match with the customer's the attitude to risk.

- Individual A issued documentation to clients which did not contain adequate information about the possible, personalised, disadvantages of transferring out of their Defined Benefit Pension Scheme. Warnings that were given were would have appeared as contradictory and therefore confusing to customers.

1.4 The FCA considers that the failings meant that the advice provided did not comply with regulatory requirements and standards, which created a significant risk that the advice that a customer should transfer out of their Defined Benefit Pension Scheme would not be suitable for them.