

## Warning Notice Statement 24/1

- 1.1 The Financial Conduct Authority (the FCA) gave an individual a warning notice on 16 November 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 Between 2 April 2015 and 25 June 2019 ("the Relevant Period") the firm advised a large number of customers to transfer out of their Defined Benefit Pension Scheme ("DBPS") to an alternative pension arrangement, notwithstanding FCA guidance which created a presumption of unsuitability in respect of transferring out of a DBPS.
- 1.3 During the Relevant Period the individual acted as a CF30 (Customer) and Pension Transfer Specialist ("PTS") at the firm; additionally, they were approved to perform both the CF1 (Director) and CF10 (Compliance Oversight) functions, with overall responsibility for the firm's compliance with regulatory requirements and standards.
- 1.4 The FCA considers that the individual breached Statement of Principle 1 of the FCA's Statements of Principle for Approved Persons when carrying out their controlled functions.
- 1.5 In their role as a CF30 and PTS the individual was reckless and thereby acted without integrity because they:
- made Personal Recommendations despite having failed to obtain from customers adequate information relating to their financial situation, including their additional resource and current expenditure details, that was necessary for them to properly assess whether it would be suitable to transfer out of the DBPS;
  - made Personal Recommendations despite having failed to adequately assess customers' attitudes to investment and transfer risk, which was necessary for them properly to assess whether it would be suitable to transfer out of the DBPS; and

- approved Suitability Reports which failed to provide their customers with sufficient information from the transfer value analysis to enable them to be able to make an informed decision about whether to complete a Pension Transfer.
- 1.6 This was despite knowing that each of these steps was a necessary prerequisite to providing a Personal Recommendation.
- 1.7 In their oversight roles as a CF1 and CF10 the individual was reckless and thereby acted without integrity because they failed to take any proper steps to ensure that:
- the firm adequately assessed the suitability of the Pension Transfer for the customer, including adequately assessing customers' objectives and attitude to risk;
  - the customer fact find processes used by the firm were adequate and appropriate, meaning that insufficient customer information was gathered to assess suitability;
  - an adequate and appropriate compliance monitoring system was in place at the firm to ensure compliance with the FCA's requirements and standards for Pension Transfer advice;
  - the firm maintained adequate customer files and business records; and
  - the firm allocated adequate resources to the firm's compliance function and to the CF10 role.
- 1.8 This was despite knowing that their oversight failures increased the risk that the firm might provide unsuitable Pension Transfer advice to its customers, in breach of several COBS rules applicable to the firm, and despite the significant increase in the number of customers seeking such advice during the Relevant Period.
- 1.9 Additionally, during the Relevant Period the individual acted dishonestly in relation to their financial affairs, agreed a settlement in respect of the dishonest conduct and failed to notify the FCA of the same, breaching Statement of Principle 4.
- 1.10 The FCA considers that the failings summarised above meant that the advice provided, both by the individual and the firm, did not comply with regulatory requirements and standards, creating a significant risk that the advice that a customer should transfer out of their DBPS would not be suitable for them.