FINANCIAL CONDUCT AUTHORITY

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FINAL NOTICE

To:	**Inspirational Financial Management Ltd (in administration)**
Firm Reference Number:	**223511**
Address:	**c/o Insolvency One Limited 1 Aire Street Leeds LS1 4PR**
Date:	**11 March 2024**

1. ACTION

1.1. For the reasons given in this Final Notice, the Financial Conduct Authority ("the Authority") hereby imposes on Inspirational Financial Management Ltd (in administration) ("IFM") a financial penalty of £897,840 (comprising disgorgement of £740,140 and a penal element of £157,700) pursuant to section 206 of the Financial Services and Markets Act 2000 ("the Act").

1.2. IFM agreed to resolve this matter and qualified for a 30% (stage 1) discount to the penal element under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed a financial penalty of £965,440 (comprising disgorgement of £740,140 and a penal element of £225,300) on IFM.

1.3. IFM has recently gone into administration and as such the realisation of saleable assets is currently uncertain. The Authority will therefore give preference to creditors (some of whom may be consumers) with a valid provable debt, ahead of its financial penalty, in order to maximise the funds available for redress.

2. SUMMARY OF REASONS

Overview

2.1 IFM was approved to provide defined benefit Pension Transfer advice. It gave unsuitable advice to customers, most of whom were British Steel Pension Scheme ("BSPS") members, to transfer away from schemes which offered important guarantees, resulting in customers' retirement funds being unnecessarily put at risk, against their best interests.

2.2 Between 8 June 2015 and 22 December 2017 ("the Relevant Period"), IFM advised 307 customers on whether to transfer out of their Defined Benefit Pension Schemes ("DBPS"). Notwithstanding FCA guidance which created a presumption of unsuitability in respect of transferring out of a defined benefit pension arrangement, IFM advised 261 out of 307 (85%) Pension Transfer customers to complete a Pension Transfer. 231 of the 307 customers (75%) were members of the BSPS. The proportion of IFM's BSPS customers advised to transfer was even greater – 206 out of 231 (89%).

2.3 IFM's customers faced a difficult and very important decision concerning their pensions during the Relevant Period. Many of these pensions were of significant value and customers were reliant on the guaranteed benefits offered under their existing schemes. BSPS customers were required to make this decision in the context of a high level of speculation at the time about the future of the BSPS due to a restructuring of the scheme. IFM's non-compliant advice to transfer out exposed both BSPS and non BSPS customers to the risk of not being able to meet their income needs throughout retirement since their income would be dependent on the performance of the recommended investment. In many cases, IFM did not have a reasonable basis for believing that those customers could financially bear any investment risks related to the Pension Transfers which it recommended.

2.4 One British Steel customer was wholly reliant on benefits from the BSPS as he had no other assets which could be used to provide income in retirement. IFM provided him with a cashflow projection indicating that the fund value following transfer would likely last until age 100, even at low growth rates. However, given the customer’s likely expenditure in retirement, this was not accurate and in fact there was a likelihood that the fund would be exhausted in his lifetime.

2.5 IFM operated a contingent charging model for Pension Transfer advice, meaning that a customer paid for IFM’s advice only if the customer transferred their defined benefit pension following IFM’s recommendation. If IFM advised the customer not to transfer, it received no fee.

2.6 The total value of the DBPSs on which IFM gave advice was more than £110 million, with an average transfer value per customer of more than £394,000. IFM advised its BSPS customers to transfer out CETVs with a total value of more than £93 million and with an average value of more than £455,000. At least 198 out of 206 (96%) of those BSPS customers followed IFM’s advice and transferred out. The gross revenue earned by IFM from defined benefit Pension Transfer work during the Relevant Period was £1,502,400.61.

2.7 The Authority has carried out significant work in response to the harm, or prospective harm, caused to members of the BSPS by authorised firms and their advisers. The Authority has taken intervention action in the form of requirements to vary the permissions of relevant authorised firms to mitigate the risk of ongoing harm to consumers. The Authority has also commenced enforcement investigations into particular firms and individuals, including the investigation into IFM.

IFM

2.8 IFM is an independent financial advice firm based in Huddersfield, West Yorkshire. It was authorised by the Authority to undertake Pension Transfers and Pension Opt Outs and to arrange (bring about) deals in investments. IFM went into administration on 30 November 2023.

2.9 During the Relevant Period, IFM advised 307 customers on whether to transfer out of their DBPS. IFM ceased providing advice to BSPS customers in December 2017 and, following intervention from the Authority, agreed to cease providing Pension Transfer advice altogether. 231 out of IFM’s 307 customers (75%) were members of the BSPS. Notwithstanding FCA guidance which created a presumption against advising a customer to transfer out of their DBPS, IFM advised 261 out of 307 (85%), of its Pension Transfer customers to complete a Pension Transfer. The proportion of IFM's BSPS customers which it advised to transfer out was even greater at 89%.

2.10 The Authority reviewed 18 of IFM's completed Pension Transfer advice files from the Relevant Period. IFM provided seriously flawed Pension Transfer advice to a significant proportion of its Pension Transfer customers. For many of its customers, IFM failed to gather sufficient information from them (including on their financial situation), meaning that IFM was not in a sufficiently informed position and should not have given its customers advice on transferring their pensions. For some customers, IFM provided advice which was unsuitable in light of the customers' investment objectives and attitude to risk. Moreover, IFM did not put its customers in a sufficiently informed position to decide that transferring out was in their best interests. Some Suitability Reports contained misleading information, and in 184 out of the 206 BSPS cases where transfer was recommended (89%), customers were sent the Suitability Report after the transfer documents had been submitted to the BSPS.

FCA's Principles for Business

2.11 During the Relevant Period:

(a) Principle 3 of the FCA's Principles for Businesses stated that: "*A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems*."

(b) Principle 6 of the FCA's Principles for Businesses stated that: "*A firm must pay due regard to customers and treat them fairly.*"

(c) Principle 9 of the FCA's Principles for Businesses stated that: "*A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment*."

IFM's misconduct

2.12 The Authority considers that by reason of the matters described in section 4 of this Notice, IFM breached:

(a) Principle 3 in that during the Relevant Period it failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.

(b) Principle 6 and certain rules in the Authority's Conduct of Business Sourcebook ("COBS"), in that in the period 4 April 2017 to 22 December 2017 (the "Principle 6 Relevant Period") it failed to pay due regard to the interests of customers and treat them fairly.

(c) Principle 9 and certain rules in COBS, in that during the Relevant Period it failed to take reasonable care to ensure the suitability of its advice for customers entitled to rely upon IFM's judgement in relation to the transfer of their Defined Benefit Pension Schemes.

2.13 In particular, in breach of Principle 9 and certain rules in COBS, IFM failed to comply with the Authority's rules and ensure the suitability of advice in a significant proportion of Pension Transfer cases in that:

(a) IFM failed to obtain the necessary information from the customer, particularly information concerning the customer's financial situation;

(b) IFM failed properly to assess, on the basis of the information obtained, or give due consideration to, whether the recommendation was suitable for the customer and in their best interests and in particular whether:

(i) the customer could financially bear the risks involved in a Pension Transfer;

(ii) the Pension Transfer recommended met the customer's investment objectives;

(iii) 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 the customer's lack of experience and knowledge in that context; and

(iv) the transfer analysis supported a recommendation to transfer out of the ceding scheme;

(c) IFM failed to ensure that any or any adequate transfer analysis (TVAS) was prepared for and explained adequately to all customers comparing the benefits likely to be paid under the DBPS with benefits afforded by the personal pension or other pension scheme into which it was proposed that the customer should transfer. Even where a TVAS was prepared, it did not always support the decision to transfer.

2.14 IFM also failed, in breach of Principle 6 and certain rules in COBS, to ensure that it paid due regard to the interests of customers and treated them fairly. IFM was required to provide its customers with a Suitability Report, which is a written record that should clearly set out customer's circumstances and the adviser's Personal Recommendation, along with the reasons for it. IFM was also required to provide customers with a transfer analysis to compare the benefits likely to be paid under the DBPS with benefits afforded by the recommended pension to which the customer should transfer. IFM was required to take reasonable steps to ensure the customer understood the advice and any comparison information provided. Contrary to this and in breach of Principle 6:

(a) the Suitability Reports provided to customers by IFM used wording that was almost entirely derived from templates, which meant that important elements of IFM's advice were generic and failed properly to explain the rationale for the advice;

(b) many of the Suitability Reports for BSPS members included incorrect information that early retirement was either unavailable or unlikely to be available in the Pension Protection Fund; and

(c) IFM failed to ensure that Suitability Reports and the transfer analysis required by the COBS rules were provided to BSPS customers in a timely manner so that customers were properly able to make an informed decision. In approximately 184 cases where a transfer was recommended, IFM's customers took the decision to give up the benefits of their DBPS and submitted transfer documentation to BSPS without having been provided with a Suitability Report. In almost all cases, Suitability Reports were provided after customers had signed the forms required to effect a transfer and received a Personal Recommendation, which risked customers not giving proper consideration to the contents of the report.

2.15 IFM also failed, in breach of Principle 3, to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, as follows:

(a) IFM failed to put in place adequate policies and procedures to govern its pension advice process and the oversight of that process. Instead, IFM placed excessive reliance on the expertise and experience of Mr Cobill as IFM's sole Pension Transfer Specialist, in circumstances where IFM lacked capacity to monitor or oversee the Pension Transfer advice he provided;

(b) IFM failed to ensure that Suitability Reports, that were prepared by a member of back office staff, were reviewed by the adviser or subject to any compliance checks before being issued to customers;

(c) IFM failed to ensure that there were appropriate internal compliance checks (such as regular file reviews) conducted on the advice given by Mr Cobill;

(d) IFM also failed to ensure that advice received meaningful external scrutiny;

(e) IFM had no systems or controls to ensure that Suitability Reports and transfer analysis were provided to customers in a timely manner and in accordance with the requirements of COBS; and

(f) IFM failed to respond appropriately to the file review conducted by Consultant B in October 2017 which identified issues with the Pension Transfer advice given by Mr Cobill to one of IFM's customers.

2.16 These deficiencies in IFM's systems and controls were exacerbated by the significant number of BSPS customers advised by the Firm. The increase in the volume of business exposed the following additional shortcomings in the Firm's systems and controls:

(a) BSPS customers significantly increased the volume of Pension Transfer business undertaken by IFM. However, the Firm did not acknowledge the increased risk that this posed, when that risk should have been obvious to it; and

(b) IFM responded to the increased demand by streamlining its advice process, while failing to bolster its monitoring, oversight or compliance arrangements. That further increased the risk of its customers receiving non-compliant advice.

2.17 IFM's failure to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, put customers at risk of receiving unsuitable advice – as in fact happened in a significant proportion of Pension Transfer cases.

Seriousness

2.18 The Authority considers IFM's breaches of Principles 3, 6 and 9 to be particularly serious because:

(a) they caused a significant risk of loss to individual consumers who transferred out of their DBPS as a result of IFM's advice. The average CETV of IFM's Pension Transfer customers was more than £394,000. The average CETV of IFM's BSPS customers was more than £455,000. For many customers, their DBPS was their most valuable asset and was their only retirement provision other than their state pension;

(b) IFM's breach of Principle 3 revealed serious and systemic weaknesses in its procedures, management systems and internal controls;

(c) IFM gained a substantial, direct benefit from its breaches; and

(d) IFM's breaches affected particularly vulnerable people, namely BSPS members, who were in a vulnerable position due to the uncertainty surrounding the future of the BSPS.

Sanction

2.19 The Authority hereby imposes a financial penalty on IFM in the amount of £897,840 for its breaches of Principles 3, 6 and 9.

2.20 IFM has recently gone into administration and as such the realisation of saleable assets is currently uncertain. The Authority will therefore give preference to creditors (some of whom may be consumers) with a valid provable debt, ahead of its financial penalty, in order to maximise funds available for redress.

3. DEFINITIONS

3.1 The definitions below are used in this Final Notice:

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

"the Authority" means the Financial Conduct Authority;

"Authority's Rules" means the Authority's Conduct of Business Sourcebook as applicable during the Relevant Period;

"British Steel Pension Scheme" or "BSPS" means the British Steel Defined Benefit Pension Scheme that was in place during the period 8 June 2015 to 13 December 2017;

"BSPS 2" means the Defined Benefit Pension Scheme designed to succeed the BSPS, created after the RAA was put into effect;

"CETV" means cash equivalent transfer value, which is the cash value of benefits which have been accrued to, or in respect of, a member of a pension scheme at a particular date. The CETV represents the expected costs of providing the member's benefits within the scheme and, in the case of a Defined Benefit Pension Scheme, the CETV is determined using actuarial assumptions;

"COBS" means the Conduct of Business Sourcebook, part of the Handbook;

"Consultant A" means the compliance consultant engaged by IFM who carried out a compliance review at the Firm every two months;

"Consultant B" means the compliance consultant engaged by IFM to carry out a compliance review at the Firm at six monthly intervals, who was first instructed in 2017;

"Defined Benefit Pension Scheme" or "DBPS" means an occupational pension scheme as defined by Article 3(1) of the Financial Services and Markets Act (Regulated Activities) Order 2001, namely where the amount paid to the beneficiary is based on how many years the beneficiary has been employed and the salary the beneficiary earned during that employment (rather than the value of their investments);

"Defined Contribution" or "DC" means a common type of pension where contributions are held in investments until the holder reaches their chosen retirement age;

"DEPP" means the Authority's Decision Procedure and Penalties Manual;

"EG" means the Authority's Enforcement Guide;

"the FCA BSPS Redress Scheme" means the redress scheme that the FCA has launched under section 404 of the Act for BSPS members who suffered financially as a result of unsuitable defined benefit Pension Transfer advice;

"FOS" means the Financial Ombudsman Service;

"the Handbook" means the Authority's Handbook of rules and guidance;

"IFM" or "the Firm" means Inspirational Financial Management Limited;

"Mr Cobill" means Arthur Jonathan Cobill;

"Mr Hofstetter" means William Hofstetter;

"PCLS" means pension commencement lump sum, an amount of money available to a member of a pension scheme which may be paid out as a lump sum when they begin taking pension benefits, and which is not subject to taxation;

"Pension Opt Out" has the meaning given in the Handbook and includes a transaction resulting from the decision of a retail client to opt out of an occupational pension scheme to which his employer contributes and of which he is a member;

"Pension Protection Fund" or "PPF" is a statutory public corporation which protects people with a defined benefit pension when an employer becomes insolvent. If the employer doesn’t have enough funds to pay you the pension they promised, the PPF will provide compensation instead. However, some reduction may apply;

“Pension Transfer” has the meaning given in the Handbook and includes the transfer of deferred benefits from an occupational pension scheme (with safeguarded benefits, such as a DBPS) to a personal pension scheme;

“Pension Transfer Specialist” has the meaning given in the Handbook and includes an individual appointed by a firm to check the suitability of, amongst other things, a Pension Transfer, who has passed the required examinations as specified in the Training and Competence Sourcebook, part of the Handbook;

“Personal Recommendation” means a recommendation that is advice on transfer of pension benefits into a personal pension or SIPP, and is presented as suitable for the customer to whom it is made, or is based on a consideration of the customer’s circumstances;

“the Principles” means the Authority’s Principles for Businesses and rules (as applicable during the Relevant Period);

“the Principle 6 Relevant Period” means the period of 4 April 2017 to 22 December 2017

“Regulated Apportionment Arrangement” or “RAA” means the statutory mechanism that can be used in corporate restructuring situations where a sponsoring employer of a DBPS stops participating in the pension scheme (thereby freeing the sponsoring employer from its financial obligations to the pension scheme) in order to avoid insolvency, subject to certain conditions being met and the RAA being approved by The Pensions Regulator and the PPF;

“the Relevant Period” means the period of 8 June 2015 to 22 December 2017;

“Suitability Report” means the report which a firm must provide to its customer under COBS 9.4 which, amongst other things, explains why the firm has concluded that a recommended transaction is suitable for the customer;

“the Tribunal” means the Upper Tribunal (Tax and Chancery Chamber);

"TVAS" stands for 'transfer value analysis' and is the comparison that a firm must carry out in accordance with COBS 19.1.2R when a firm gives advice or a Personal Recommendation about, amongst other things, a Pension Transfer; and

"TVAS Report" means a document that reports to the customer in respect of the comparison firms are required to carry on in accordance with COBS 19.1.2R.

4. FACTS AND MATTERS

Background

IFM

4.1. IFM is an independent financial advice firm based in Huddersfield, West Yorkshire. Since 28 July 2003, IFM has been authorised by the Authority. During the Relevant Period, IFM had a range of permissions to carry on regulated activities, including permission to advise on Pension Transfers. IFM went into administration on 30 November 2023.

4.2. On 21 December 2017, the Authority held a conference call with IFM. An assessment of the defined benefit Pension Transfer work identified problems with customer files. IFM ceased providing advice to BSPS customers in December 2017 and, following intervention from the Authority, agreed to cease providing Pension Transfer advice altogether.

4.3. During the Relevant Period, IFM advised 261 customers to transfer out of their DBPS, 206 of whom were BSPS members.

4.4. Mr Hofstetter was approved to perform the SMF3 Executive Director and SMF16 Compliance Oversight roles at IFM and was also the person designated as being Responsible for Insurance Distribution. Throughout the Relevant Period, Mr Hofstetter was approved to perform the CF1 (Director), CF8 (Apportionment and Oversight), CF10 (Compliance Oversight), CF21 (Investment Adviser) and CF30 (Customer) controlled functions at IFM. IFM had another director approved by the Authority to carry out various functions, who only practised in areas of IFM's business not involving Pension Transfer advice. Mr Hofstetter and the other director are and were throughout the Relevant Period the only directors of IFM, and Mr

Hofstetter is the sole person with significant control over IFM, owning at least 75% of its shares.

4.5. Mr Hofstetter and Mr Cobill were the only people at IFM who were approved to perform the CF30 (Customer) controlled function during the Relevant Period. Mr Cobill was the only Pension Transfer Specialist at IFM and gave almost all of the advice to Pension Transfer customers during the Relevant Period. Mr Hofstetter acted as an adviser in a small number of Pension Transfer cases but, because he was not a qualified Pension Transfer Specialist, his advice was subject to checking by Mr Cobill.

4.6. Mr Cobill and Mr Hofstetter were supported by those working in IFM's office. Throughout the Relevant Period, Mr Cobill was self-employed rather than being employed by IFM. He was paid 70% of IFM's earnings from new business and 80% of its earnings from renewals.

4.7. Mr Hofstetter was responsible for compliance oversight at IFM throughout the Relevant Period and compliance support was provided by external consultants.

Pension transfers

4.8. Pensions are a traditional and tax-efficient way of saving money for retirement. The value of someone's pension can have a significant impact on their quality of life during retirement and, in some circumstances, may affect whether they can afford to retire at all. Pensions are, in most cases, a primary resource for ensuring financial stability in retirement. For some people, they are the only way of funding retirement. Customers who engage authorised firms to provide them with advice in relation to their pensions place significant trust in those providing the advice. Where a financial adviser fails to conduct the affairs of their advice business in a manner that is compliant with the Authority's regulatory requirements, this exposes their customers to a significant risk of harm.

4.9. Pensions can be structured in a variety of ways. However, a DBPS is particularly valuable because an employer sponsor carries the financial burden associated with offering a secure, guaranteed income for life to members, which typically increases each year in line with inflation. This is in contrast to, for example, a DC pension scheme where employer and employee capital contributions are invested, but the investment and mortality risk are borne by the member. The Authority expects that for the majority of customers it is in their best interests to remain in their DBPS because of the guarantees and protections it offers.

4.10. Customers who engage advisers and authorised firms to provide them with advice in relation to their pensions therefore place significant trust in them. It is important that firms and their advisers exercise due skill, care and diligence when advising customers regarding their pensions, ensuring that the advice given to a customer is suitable for them, having regard to all of their relevant circumstances. This is even more important when customers have no option but to make a decision regarding their pension.

4.11. Transferring out of a DBPS involves giving up the guaranteed benefits in exchange for a cash-equivalent transfer value which is typically invested in a DC pension. If a customer leaves a DBPS, they will have to buy an annuity to obtain a guaranteed level of income. Alternatively, they may rely on income from investments, but investments will have to be managed in such a way as to produce ongoing income; and even then, there is no guarantee as to the amount or duration of that income.

4.12. The introduction of pensions freedoms (introduced in April 2015) for DC pensions made transferring out of a DBPS an attractive option for some people. However, the Authority considers that, given the nature of the guaranteed benefits provided under a DBPS, advisers' default assumption should be that transferring out and giving up those benefits is unlikely to be suitable for a customer unless they can clearly show, based on a customer's specific circumstances, that it is in their best interests.

4.13. During the Relevant Period, IFM advised 307 customers on potential transfers from a DBPS to an alternative pension arrangement, 231 (75%) of whom were members of the BSPS. Notwithstanding FCA guidance which created a presumption against advising a customer to transfer out of their DBPS, 261 out of 307 (85%), of its Pension Transfer customers were advised by IFM to transfer. The proportion of IFM's BSPS customers advised to transfer was even greater – 206 out of 231 (89%). IFM advised its BSPS customers to transfer out CETVs with a total value of more than £93 million and with an average value of more than £455,000. At least 198 out of 206 (96%) of those BSPS customers followed IFM's advice and transferred out.

The BSPS

4.13 The BSPS was one of the largest DBPSs in the UK, with approximately 125,000 members and £15 billion in assets as of 30 June 2017. In March 2017, the BSPS was closed to future accruals, which meant that no new members could join it and existing members could no longer build up their benefits. The BSPS also had an ongoing funding deficit.

4.14 In early 2016, various options were being explored in relation to the BSPS as a result of insolvency concerns relating to one of its sponsoring employers. These options included seeking legislative changes which would have allowed pension increases available under the BSPS to be reduced to the statutory minimum levels, and the sale of one of the sponsoring employers. However, it was concluded that the only way to avoid insolvency would be to enter into a Regulated Apportionment Arrangement ("RAA").

4.15 On 11 August 2017, the Pensions Regulator gave its clearance for the RAA. Under the RAA, the BSPS would receive £550 million and a 33% equity stake in one of the sponsoring employers and the BSPS would transfer into the PPF. In addition, a new DBPS ("BSPS 2") was proposed by the sponsoring employers in combination with the RAA proposal. The RAA received formal approval on 11 September 2017, which resulted in the BSPS being separated from the sponsoring employers.

4.16 As a consequence of the RAA, members of the BSPS were required to make a choice between two options offered by the BSPS, namely to either:

(a) remain in the BSPS and therefore move into the PPF; or

(b) transfer their benefits into BSPS 2.

4.17 Alternatively, BSPS members could take a CETV and transfer their pension benefits into an alternative pension arrangement (for example a personal pension scheme or another occupational pension scheme held by the member).

4.18 On 11 and 21 September 2017, the BSPS announced that it would separate from the sponsoring employers, including the principal sponsor, Tata Steel UK. Information about the options available to members was available on the BSPS's website from 11 August 2017 and in October 2017, the BSPS distributed information packs to members about these options. Members were required to choose their preferred option by 22 December 2017. Those who wanted to transfer their pension benefits from the BSPS to a personal pension were required to submit the required paperwork to execute the transfer by 16 February 2018.

4.19 The Authority has carried out significant work in response to the harm caused to members of the BSPS by authorised firms. The Authority has taken intervention action in the form of requirements to vary permissions to stop ongoing harm at relevant firms and has initiated enforcement investigations against culpable firms and individuals, of which the investigation into IFM is one. On 31 March 2022, the Authority launched a consultation paper for the FCA BSPS Redress Scheme.

4.20 The consultation paper made reference to the finding of the Rookes Review, an independent review of the support given to BSPS members during restructuring and 'Time to Choose', that BSPS members experienced, and were influenced by, a set of unique circumstances. This included the following:

(a) BSPS members were faced with making decisions critical to their long-term financial security, a very important decision on a complex issue with a tight deadline;

(b) they generally had given little consideration to their pension prior to the 'Time To Choose' period commencing and therefore had little knowledge of their options; and

(c) the scale of the exercise, and the geographical concentration of members, meant there was difficulty in accessing accurate information and guidance about their options.

4.21 On 28 November 2022, the Authority published a policy statement setting out the final rules and guidance for the FCA BSPS Redress Scheme. The policy statement estimates the average amount lost per consumer is around £45,000. On 28 February 2023, the FCA BSPS Redress Scheme came into force.

IFM's advice process

4.22 Before enquiries from BSPS members started to come in to IFM in mid-2017, Pension Transfer advice made up a less significant proportion of IFM's business and revenue. In the period of nearly two years from 8 June 2015 to 1 April 2017, IFM advised on only 56 Pension Transfers.

4.23 Throughout the Relevant Period, IFM had no written description of its advice process for Pension Transfer advice and maintained very little documentation of any form relating to its advice process or the oversight of that process. IFM's written policies and procedures were high-level and lacked specificity. In ensuring that its processes were compliant, IFM was heavily reliant on the experience and expertise of Mr Cobill. The absence of effective oversight resulted in Mr Cobill adopting a process which failed to ensure that all necessary information was gathered from customers; that suitable advice was provided; and that customers were afforded sufficient time to consider the advice to transfer before making the decision to do so.

4.24 IFM's Pension Transfer advice process before mid-2017 was described by IFM as consisting of a series of steps. Once a customer had made contact, there would be an initial conversation to discuss the matter in general terms. If the customer wanted to take matters further, IFM would gather information about the customer and about the ceding scheme, including the CETV. IFM would then carry out a comparison between the ceding scheme and the proposed arrangement (a TVAS). There would be further discussions or emails between IFM and the customer to ensure that IFM had all the information it needed to advise.

4.25 According to IFM, once all the information had been gathered, there would normally be at least two, possibly three face-to-face meetings with the customer. The first meeting would be for the purposes of gathering further information; at the second meeting, the information gathered would be presented and the advice would be given. IFM would then issue the customer's Suitability Report – a written summary and explanation of its advice - which would be drafted by back-office staff. On Mr Hofstetter's account, the Suitability Report would be reviewed and signed off by Mr Cobill before being sent to the customer for their consideration. However, as addressed in paragraph 4.38 below, there was no system in place to ensure the review of Suitability Reports before they were provided to customers and Mr Cobill accepted in interview that he did not review every Suitability Report before it was provided to a customer.

4.26 If IFM advised the customer to transfer their pension and the customer decided to follow that advice, there would be a final meeting with the customer to complete the documentation. IFM's back-office staff would then check that all relevant paperwork had been uploaded to its electronic file and would submit the necessary applications to the ceding scheme and the new provider.

4.27 IFM operated a contingent charging model for the Pension Transfer advice it provided, meaning that a customer paid for its advice only if the customer transferred their defined benefit pension following IFM's recommendation. If IFM advised the customer not to transfer, it received no fee. The fee charged was typically 3% or 4% of the customer's CETV and was paid out of the customer's transferred funds, in addition to a £250 fixed fee for the initial set up.

4.28 In around March 2017, Mr Cobill was approached by an adviser at another authorised firm with connections to the British Steel community but without the capacity to advise BSPS members on Pension Transfers. IFM and the other firm agreed that IFM would accept introductions from the other firm of BSPS customers who were interested in receiving advice on transferring out of their DBPS. Under the arrangement between the two firms, the other firm provided only the customer's contact details directly to Mr Cobill. No other information was provided and no fee was payable by IFM or Mr Cobill in exchange for the introductions. This was a voluntary and relatively informal arrangement; IFM was not bound to accept every introduction that it received.

4.29 In the second half of 2017, the other firm introduced significant numbers of BSPS members seeking Pension Transfer advice to IFM. IFM began to take on Pension Transfer advice customers in ever greater numbers, all of them with the same ceding scheme – the BSPS. This volume of new Pension Transfer business was unprecedented in IFM's experience. IFM altered its charging structure for BSPS customers. They were to be charged less than non-BSPS customers: IFM's contingent charging model was maintained but a cap of £5,000 was introduced.

4.30 BSPS customers also went through an advice process different to that used by IFM prior to mid-2017 (as described above). BSPS customers had fewer meetings with IFM's adviser. The two to three meetings were replaced by one or two and in the majority of cases there was only one. IFM's explanation for these changes is that it considered that there was less work involved for IFM in advising BSPS members, because the BSPS members all had the same ceding scheme and because they had in many cases already obtained information, including their CETV, from the scheme trustees.

4.31 In September 2017, approximately six months after the first approach to IFM from the other firm, that firm stopped referring customers to IFM. However, IFM continued to acquire new BSPS Pension Transfer customers in significant numbers through customer referrals.

Significant increase in the rate at which IFM gave Pension Transfer advice

4.32 Having advised a customer on a Pension Transfer on average once every 10 days or so before the BSPS introductions began, IFM quickly transitioned to working at a much faster rate. During IFM's busiest period of advising Pension Transfer customers, the four months from August to November 2017 inclusive, it was common for Mr Cobill to meet several BSPS customers per day to advise them on transferring their pensions. There were 26 occasions on which he had three meetings per day, 17 on which he had 4 meetings per day and 4 on which he had five meetings per day. In this period, IFM met customers on 231 occasions and made 208 Personal Recommendations over 87 working days, giving averages of approximately 2.65 meetings and 2.39 recommendations per day. The vast majority of those customers (87%) were advised to transfer out of the BSPS.

The effect of the increased workload on IFM and its response

4.33 The increased volume of Pension Transfer advice inevitably meant a significant increase in workload for everyone involved in giving that advice. However, IFM did very little to increase its resources:

(a) Mr Cobill remained IFM's only Pension Transfer Specialist throughout its busiest period of August to November 2017. Mr Hofstetter gave advice to only eight BSPS Pension Transfer customers (out of a total of 231);

(b) the only increase in staffing was in the form of an administrative assistant engaged for one or two days a week over a two-week period;

(c) the member of back-office staff whose job it was to draft the Suitability Reports setting out IFM's advice to its Pension Transfer customers also experienced a significant increase in their workload, but their working hours were not increased and IFM did nothing to assist them in coping with the increased demands on their time; and

(d) a number of Suitability Reports prepared for customers were left unsent for a period of up to seven weeks (and were not sent out before the customers signed their transfer documents), until a junior member of office staff returned from an extended period of leave and identified this.

4.34 Subsequently, IFM stopped accepting new Pension Transfer business in December 2017.

A compressed approach to Pension Transfer advice

4.35 IFM dealt with the increased number of Pension Transfer customers by taking a compressed approach to the advice process. For at least 70 out of the 206 (34%) BSPS customers who were advised to transfer out, IFM held the first meeting with the customer, gathered the fact-find from them, made the Personal Recommendation to them to transfer out of their DBPS and obtained the customer's signature on the BSPS discharge forms to effect the transfer, all on the same day. In some cases, the customer signed the discharge forms for the BSPS at the first meeting with IFM even before receiving the Personal Recommendation to transfer.

4.36 Mr Cobill asserted that obtaining signed transfer documents prior to issuing Suitability Reports was an acceptable practice because customers could revoke their agreement to transfer even after submission of the forms to the BSPS. However, the practice of obtaining signed transfer forms at the first meeting decreased the likelihood that customers would pay close attention to the Personal Recommendation and make a considered decision based on the advice given. The practice also suggests that Mr Cobill's advice did not start from the correct presumption that transferring out of the BSPS would not be in the customer's best interests. Mr Hofstetter accepted that for a customer to sign a fact find, receive a Personal Recommendation and sign a discharge form on the same day was not acceptable as it did not afford the customer sufficient time to consider the decision to transfer.

IFM's compliance arrangements

4.37 By way of compliance oversight during the Relevant Period, IFM relied on the following: a review of each customer file by administrative staff; informal discussions between Mr Hofstetter and Mr Cobill; a two-monthly audit by Consultant A; and a twice-yearly visit from Consultant B.

4.38 These measures were inadequate to ensure that IFM gave compliant Pension Transfer advice.

(a) The administrative review of the file was limited to establishing that the relevant documents were present on the customer file. The New Business Submission Checklist completed by IFM's administrative staff included as one of the items "*Fully completed Fact Finds – with notes explaining advice rationale*". However, the review was conducted by administrative staff who were not qualified advisers or compliance experts and could therefore not be expected properly to assess the content of the material on the file. These checks were therefore of very limited effectiveness.

(b) There were no regular compliance checks by IFM on the advice given by Mr Cobill. The only step taken by Mr Hofstetter as CF10 to check the compliance of Mr Cobill's advice was to hold ad hoc and informal discussions. The Authority has seen no evidence of these discussions and considers that, if they did take place, they were infrequent – particularly in the busy period August to December 2017. IFM had no system in place to ensure that regular, systematic and documented checks were undertaken on the advice given by Mr Cobill based on detailed file reviews. Mr Hofstetter was not a qualified Pension Transfer Specialist, which meant that he could not assess the suitability of advice, but Mr Hofstetter failed to undertake any kind of meaningful check on the advice given by Mr Cobill. Even if unable to assess the suitability of advice, compliance checks could have identified issues such as the failure to prepare TVAS reports, failure to gather information about customers, and inaccuracies in suitability reports.

(c) Suitability Reports were prepared by a member of back office staff. IFM did not require Mr Cobill (or any other person) to review Suitability Reports before they were sent to customers. The absence of any review led to inaccuracies in Suitability Reports that were not corrected. Moreover, IFM had no systems in place to ensure that, where inaccuracies in reports were identified, these were corrected.

(d) Furthermore, IFM had no system to ensure that Suitability Reports and the transfer analysis were provided to customers in a timely manner and in accordance with the requirements of COBS. As set out at paragraph 4.91 below, many customers received their Suitability Report only following a substantial delay and in some cases after the discharge forms required to effect transfer had been submitted to BSPS.

(e) IFM was subject to two-monthly audits by Consultant A. However, the Authority has seen no evidence to suggest that the consultant was a Pension Transfer Specialist. Moreover, the consultant was not required by IFM to conduct file reviews on every occasion. Rather, file reviews were conducted "at random"; there was no agreed number or frequency of file reviews. No Pension Transfer advice was reviewed by Consultant A during the Relevant Period and, during the busy period of August to November 2017, no file reviews were carried out by this consultant at all.

(f) Consultant B conducted six-monthly reviews. She was not specifically required by IFM to review the suitability of advice provided and, as far as Mr Hofstetter was aware, was not a Pension Transfer Specialist. She only conducted one review during the Relevant Period between August to October 2017, as she was first instructed in 2017.

4.39 Prior to April 2017, IFM advised on Pension Transfer cases on average once every ten days. Between August and November 2017, this rose to 2.39 recommendations per day. Despite the risk posed by the significant increase in Pension Transfer advice, IFM took no steps to increase the frequency or rigour of its existing oversight mechanisms. Where issues did emerge, they were not dealt with appropriately by IFM.

(a) As set out at paragraph 4.23 above, IFM lacked any policies or procedures governing its advice process or the oversight of that process. This led to Mr Cobill adopting the compressed advice process without challenge, which Mr Hofstetter latterly acknowledged was unacceptable.

(b) The administrative member of staff with responsibility for drafting Suitability Reports received no additional oversight between August and November 2017 despite the significant increase in his workload. Mr Hofstetter made informal enquiries regarding the wellbeing of this member of staff, but no thorough assessment was undertaken of this person's capacity and whether it would allow for Suitability Reports to be prepared in compliance with the regulatory requirements. Moreover, Mr Cobill accepted in interview with the Authority that he read only a "tiny proportion" of Suitability Reports issued to BSPS customers prepared by the member of staff. This gave rise to the risk that Suitability Reports sent to customers were inaccurate, a risk that in fact crystallised.

(c) IFM took no steps to contact BSPS customers who had received Suitability Reports containing materially incorrect information regarding early retirement in the PPF. Further detail regarding this issue is set out at paragraphs 4.83 to 4.84 below.

(d) IFM did not seek an additional external compliance support or ensure that the support it did receive addressed effectively the risks arising in relation to the significant volume of Pension Transfer advice. During the busy period of August to November 2017, no file reviews were carried out as part of its two-monthly audits.

4.40 During the busy period, IFM was visited by Consultant B as part of the twice-yearly visits, who reviewed a BSPS Pension Transfer advice file from August 2017. The consultant's report, dated 7 October 2017, gave the file a rating of 'unclear' and set out various concerns, including: a lack of clarity in how the customer's risk tolerance was assessed; a lack of evidence that IFM had checked the customer's understanding of the complex area in which the advice was being given; and the Suitability Report being issued by IFM after the recommendations were completed. Mr Hofstetter asserted that this compliance report was shared electronically with Mr Cobill, but that no further steps were taken to bring this to Mr Cobill's attention or to address the concerns identified in the report. Mr Cobill claims not to have seen this report prior to the FCA's Enforcement investigation.

The Authority's review of IFM's files

Background

4.41 The Authority reviewed a representative sample of 18 customer files of the customers who were advised by IFM during the Relevant Period; 14 out of 18 of files in the sample related to BSPS members and more than half were from IFM's busiest period of August to November 2017. The Authority assessed all 18 files against the applicable rules in COBS relating to suitability.

4.42 The Authority found that in 15 out of 18 (83%) of the customer files it reviewed, IFM failed to comply with relevant regulatory requirements regarding Pension Transfer advice. All the files contained material information gaps and for six customer files the Pension Transfer advice given by IFM was unsuitable, as detailed further below. The Authority considers it appropriate to infer from the prevalence of failures within the sample that IFM failed to comply with relevant regulatory requirements regarding Pension Transfer advice for a significant proportion of all its Pension Transfer customers during the Relevant Period.

Information Collection

4.43 The overarching suitability requirement, in COBS 9.2.1R, is for a firm to take reasonable steps to ensure that a personal recommendation (which includes, in this context, a recommendation to transfer or not to transfer a pension) is suitable for its customer. To do so, a firm must obtain the necessary information regarding the customer's (a) knowledge and experience in the investment field relevant to the pension transfer; (b) financial situation; and (c) investment objectives (COBS 9.2.1R(2)(b)). Making a personal recommendation without the necessary information increases the risk of actually providing unsuitable advice.

4.44 If a firm does not obtain the necessary information to assess suitability, it must not make a personal recommendation (COBS 9.2.6R). The Authority's review revealed gaps in the necessary information recorded in 15 out of 18 of the files reviewed (83%). Therefore, no personal recommendation should have been made in these 15 cases.

4.45 There was a pervasive failure, occurring in 13 out of 18 files, to obtain information concerning the customer's predicted expenditure in retirement. There was also a common failure, occurring in 14 out of 18 files, to obtain information about the customer's financial situation. Both areas are key in determining suitability. Without such information, IFM should not have made a Personal Recommendation. The customer's predicted expenditure in retirement is a key indicator of what their income needs will be in retirement, information which is important in assessing whether a customer should give up their defined benefits. Information about a customer's wider financial situation, including, for example, any other pensions that they may have, is central to assessing the extent of their reliance on the income provided by their DBPS, and their capacity for loss.

4.46 An example of IFM’s failure to obtain the information necessary to advise can be seen in the case of Mr B. Mr B was one of four BSPS Pension Transfer customers seen by IFM during a single day, on 19 October 2017. He was one of two customers seen on that day who signed his fact-find, received a Personal Recommendation to transfer out of his Defined Benefit Pension Scheme and signed his discharge forms to effect the transfer all on the same day. Mr B’s fact-find both lacks information and contains conflicting information about Mr B’s liabilities and expenditure. For example, the only item of monthly expenditure recorded is a £600 mortgage payment and no other detail is recorded in relation to the mortgage, despite the templated wording seeking these details. However, later on in the document, a box next to the wording, “*I have no mortgage but have a few other obligations like credit card payments etc.*” has been ticked. The notes page of the fact-find is blank. There is a page of handwritten notes on the file which merely records the information in the fact-find in summary form, with nothing additional. IFM failed to obtain sufficient information in respect of Mr B to make a Personal Recommendation.

4.47 The prevalence of information gaps in the 18 customer files reviewed by the Authority shows that Mr B’s was not an isolated case. The Authority considers it appropriate to infer from the prevalence of information gaps within the sample of 18 customer files that for a significant proportion of IFM’s other Pension Transfer customers during the Relevant Period, IFM did not obtain the information necessary to make a Personal Recommendation.

Explanations given for the gaps in the customer information on file

4.48 IFM’s position is that necessary information was obtained from customers in every case, even if the information was not recorded on the customer file. However, IFM staff members gave differing explanations to the Authority regarding the gaps in customer information on file. Mr Cobill asserted that he recorded customer information in notes which were placed on the customer file, but that these had not been scanned by administrative staff and had subsequently disappeared. Mr Hofstetter and a member of the back office staff disagree with Mr Cobill’s account, asserting that all hard copy notes on the customer files were scanned prior to the paper files being destroyed.

4.49 Having carefully considered all of the evidence on this issue, the Authority accepts that IFM may in some cases have obtained, but failed to record, some information in addition to that which is recorded in the customer files. However, the Authority does not accept that all of the necessary information was obtained in every customer's case or that IFM took reasonable steps to ensure the suitability of its advice to each of its customers.

Unsuitable Pension Transfer advice

4.50 The overarching suitability requirement (COBS 9.2.1R) is for a firm to take reasonable steps to ensure that a personal recommendation (which includes, in this context, a recommendation to transfer or not to transfer a pension) is suitable for its customer.

4.51 The starting point for Pension Transfer advice is the guidance in COBS 19.1.6G(3) (or, from 8 June 2015 to 1 April 2018, in COBS 19.1.6G) that a firm should only consider a transfer, conversion or opt-out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the customer's best interests. These provisions indicate that if the firm cannot clearly demonstrate this, then it should assume the transaction will not be suitable. In the worst scenarios, a loss of guaranteed benefits equates to severe customer harm, surrendering a primary resource for ensuring financial stability in retirement or, alternatively, commencing retirement.

4.52 Of the fifteen customer files where IFM had failed to gather sufficient information, the Authority has been able to assess six as giving unsuitable advice. All six of the customers who received unsuitable advice were BSPS members. According to their fact-finds, all six customers were still employed in the steel industry, with above average earnings and significant CETVs, reflecting significant safeguarded benefits due to them through their membership of the BSPS. None of them had other assets or investments of any significance and they had little or no knowledge or experience of financial services or investing.

Reliance on the Defined Benefit Scheme and Inability to Bear Transfer Risk

4.53 Five of the six customers for whom the Pension Transfer advice was unsuitable were reliant on their DBPS to meet their income needs throughout retirement. Their

DBPS pension was their primary source of income in retirement. These customers did not have significant assets which could be used to supplement any shortfalls in their income needs. Given their financial situation, it was especially important for these customers to retain guaranteed income because they did not have the capacity to bear the risks of transferring. In all 5 cases, IFM recommended transfer away from the defined benefit scheme when there was insufficient evidence to suggest that the customer could bear the transfer risk. IFM's advice to transfer out exposed these customers to a risk of not being able to meet their income needs throughout retirement because their income would be dependent on the performance of the recommended investment. IFM did not have a reasonable basis for believing that those customers could financially bear the risk that the value of their pension investments may fall following the Pension Transfers recommended in their cases.

Lack of Evidence to Support Customer Objectives

4.54 IFM failed to provide sufficient evidence to demonstrate that specific objectives which drove the transfer were in the customer's best interests. This was seen in all 6 cases assessed by the Authority as being unsuitable for transfer.

4.55 As the primary purpose of a pension is to meet the income needs of an individual in retirement, when maximising the customer's death benefits or the flexibility of alternative arrangements is treated as a high priority, there is an increased risk that this is at the expense of the primary purpose. There may therefore be a trade-off that must be resolved in the best interests of the customer given their circumstances (COBS 9.2.1R(1) and 9.2.2R(1)(b)). The file reviews uncovered examples of where this tension was resolved in favour of transfer, but where the Firm did not demonstrate why this was the case.

4.56 All but one of the Suitability Reports for BSPS customers reviewed by the Authority used identical wording to describe the customers' primary objective as providing greater flexibility when drawing benefits from their pension funds, suggesting a heavily templated approach and failure properly to explore the customers' objectives. In all six files where unsuitable Pension Transfer advice was given, IFM failed to demonstrate that maximising flexible benefits was in the customer's best interests. There was either no evidence in support of the need to access funds flexibly or insufficient evidence that to do so was in the customer's best interests.

4.57 Other objectives indicated by customers on the fact-finds had no supporting explanations or facts recorded. It was therefore unclear on what basis IFM had recommended the transfers. An example is provided by the file of Mr C. Mr C was 53 years old and anticipated retiring at age 60. Having no source of retirement income other than the BSPS and the state pension, he was reliant on the income provided by the BSPS in retirement. He had no mortgage and his income needs were relatively low with no reason for them to increase in retirement. Accordingly, taking into account early retirement factors, BSPS 2 might have provided him with retirement income adequate to his needs, with minimal risk. He had no need for a PCLS at retirement and his preferred type of death benefit was a pension.

4.58 Mr C was a cautious investor. The Authority’s guidance provides that a transfer should only be considered suitable where it can clearly be demonstrated, on the basis of contemporary evidence, that the transfer is in the customer’s best interests. Moreover, the Authority’s Rules require that there is a reasonable basis for believing that a recommendation meets a customer’s investment objectives. Given Mr C’s attitude to risk, the risks inherent in a decision to transfer out of a DBPS and the lack of strong drivers to transfer in his case, the Authority would expect to find evidence of a thorough explanation of how the recommended transfer met Mr C’s objectives, including consideration of available alternatives to transferring. However, the fact-find recorded nothing about his objectives beyond ticking templated boxes; no further information or explanation was captured. The Suitability Report contained only generic reasons, described using templated wording.

4.59 IFM did not have a reasonable basis for believing that the recommendation to transfer met the customer’s investment objectives.

No basis for believing customers had the necessary knowledge or experience to understand the risks involved in the transfers

4.60 Pursuant to COBS 9.2.2R(1)(c), IFM was obliged to obtain sufficient information to provide a reasonable basis for believing that its clients had the necessary experience and knowledge to understand the risks involved in the transfers. COBS 9.2.3R states that the information obtained had to include the types of service, transaction and investment with which the client was familiar, the nature, volume and frequency of their investment decisions, and their level of education.

4.61 The only information concerning the customers' knowledge and experience recorded in the six files assessed by the Authority where unsuitable Pension Transfer advice was given took the form of the customers' responses to a single tick-box, multiple choice question about their knowledge of financial decisions. In two cases, the customers ticked the box describing themselves as having "*Very little understanding or knowledge*" of financial decisions. In the other cases, where the customer had asserted a level of knowledge when their occupation and investments suggested this was not the case, there was no evidence of the adviser challenging or scrutinising these answers on file. A general lack of knowledge and experience could be inferred in all cases. Five out of six customers had worked for the same employer for a substantial period of time and, apart from the benefits available in their DBPS, all six customers had little in the way of other assets or investments (save for their ongoing contributions to their employer's group pension plan and, in one case, an ISA). Further, there was no evidence of them having previously taken financial advice and no evidence of them having any knowledge of managing pension investments.

4.62 IFM's customers faced a difficult and very important decision concerning their pensions in the context of the pensions' significant value and a high level of speculation about the future of the BSPS. The customers whose files were reviewed by the Authority had limited knowledge and experience. Given the nature of the customers, the type of transaction envisaged, and the risks involved, IFM did not obtain sufficient information to provide a reasonable basis for believing that its customers had the necessary experience and knowledge to understand the risks involved in the transfer of their defined benefits.

Failure to consider attitude to transfer risk

4.63 Pursuant to COBS 9.2.2R(1)(a), IFM was obliged to obtain information giving it a reasonable basis for believing that its recommendation to transfer met the client's investment objectives. As part of that, IFM was obliged to obtain information on the client's preferences regarding risk taking and their risk profile, in accordance with COBS 9.2.2R(2). IFM had to have a reasonable basis for believing that the customer was prepared to take the risk involved in transferring out of their DBPS – in particular, the risk involved in exchanging guaranteed benefits for non-guaranteed benefits which are subject to investment risk borne by the customer.

4.64 In three out of the six cases assessed where unsuitable Pension Transfer advice was given (Mr B, Mr E and Mr W), there is no evidence that IFM had a reasonable basis for believing that its recommendation to transfer met the customer's objectives in the context of their attitude to risk. Customer files lack evidence of discussions around risk, depletion of the fund and customer responses/rationale as regards their views.

4.65 By way of example, Mr W generally selected the most cautious responses available in the fact-find, categorised himself as a 'cautious risk' investor and added narrative comments on more than one occasion to emphasise the point, such as: "*I am quite a cautious person and require a stable income for my retirement which will not exhaust and be able to support my wife when I die*."

4.66 The Suitability Reports for Mr B, Mr E and Mr W make no reference to their attitudes to risk. Instead, they all contain the following templated wording:

> "As a result of our discussions, it became clear that you are attracted to the flexibility of the personal pension and imagine this will suit your retirement needs better than a fixed income for life. Equally, it is very important to you that you are in control of your retirement provisions and that you can draw benefits when you want rather than being bound by scheme rules and trustee discretion. Ensuring your pension will not die with you and allowing it to be fully inherited by your family is also a key objective of yours."
>
> "Ultimately, the level of value placed on one aspect of a pension is down to the individual. In other words, if an individual wants the peace of mind from a guaranteed pension, then they will clearly place a high value on a Scheme Pension.
>
> From our discussions, it is clear that you place a higher value on having choice and control over your pension fund than having a guaranteed lifetime income."

4.67 The documentation on file provides no explanation of how the above conclusions have been reached, in light of these customers' attitudes to risk as expressed in their fact-finds. Mr B and Mr E did not complete the section of the Pension Review Questionnaire which asked them to list their priorities in numerical order. Mr W did complete this section and prioritised his three most important objectives as follows:

"*1) Improve the security of my pension fund; 2) Ability to afford to retire early; and 3) Flexibility and control of income in retirement*." He added a note stating that he required a stable income for retirement. All three described themselves as cautious investors who would tolerate only low volatility. Neither Mr B nor Mr E mentioned leaving money to their family as an objective for them. In the cases of Mr B and Mr E, insufficient information was recorded to justify the conclusion that their desire for flexibility outweighed their cautious approaches to risk. For Mr W, this conclusion was inconsistent with the objectives stated in his questionnaire and insufficiently justified given his attitude to risk.

Transfer analysis not supportive of transfer or no transfer analysis

4.68 In order to provide Pension Transfer advice in accordance with COBS 19.1.2R, IFM was obliged to carry out a comparison between the benefits likely to be paid by the ceding scheme with the benefits afforded by a personal pension. IFM further had to ensure that the comparison included enough information for the client to be able to make an informed decision and give the client a copy of the comparison, drawing the client's attention to the factors that did and did not support its advice. Finally, IFM had to take reasonable steps to ensure that the client understood its comparison and its advice. This was important, given the limited knowledge and experience of many of the customers in the sample. Where files did not demonstrate that this was the case, there was a risk that the customer followed the advice without understanding how the transfer compared with what they were giving up.

4.69 During the Relevant Period, this comparison would typically be contained in a TVAS Report, which would set out, amongst other things, a comparison relating to specific benefits (for example, death benefits) and a critical yield calculation. The critical yield is guidance on the level of return (expressed as a percentage) that the customer's investment will need to achieve up to the point they start drawing from the pension to replicate the benefits they would receive from their DBPS.

4.70 In five of the files reviewed, the TVAS Report was not properly prepared, in that it was not conducted on the basis of the customer's preferred retirement age, on the basis of their stated intention to draw a PCLS or with the correct charges. Where calculated to a higher retirement age than desired by the customer, the critical yield figure will be lower, suggesting the receiving fund does not need to perform as well. For example, in the case of Mr H, the TVAS was prepared to the retirement age of 65 rather than the preferred retirement age of 55. The critical yield calculated to age 55 is likely to be much higher than that calculated to age 65. Moreover, the TVAS was not prepared assuming Mr H took his PCLS, even though this is indicated as a possibility in the suitability report.

4.71 Further, in all six of the files assessed by the Authority where unsuitable Pension Transfer advice was given, the transfer analysis did not support the Personal Recommendation to transfer, in that the critical yield was greater than the return likely to be achievable in light of the customer's attitude to investment risk. For example, in the case of Mr W, the BSPS customer referred to at paragraphs 4.64 to 4.67 above, the critical yield was 7.7%. The Authority considers that this return was unlikely to be matched by investments consistent with Mr W's extremely cautious attitude to risk.

4.72 In six out of 14 (43%) of the BSPS files reviewed by the Authority, and two out of six (33%) of the files assessed by the Authority where unsuitable Pension Transfer advice was given, there was no TVAS Report in the customer file where one was required. This omission occurred repeatedly throughout IFM's BSPS customer book. For 71 of the 206 BSPS customers (34%) for whom IFM made a recommendation to transfer, IFM did not obtain a TVAS Report or otherwise carry out the comparison required by the rules.

4.73 Of the files reviewed by the Authority for BSPS customers, 12 of the 14 Suitability Reports contained the following (or very similar) templated wording:

> "Any comparison is made against the expected retirement income at 65 under the current scheme rules and benefits. Given we know these are to change, the analysis will not represent a true picture and <u>will arguably add no value to the process</u>. Moreover, as your intention behind transferring is to take full advantage of pensions 'freedom' rather than purchase a lifetime annuity in the future, <u>the results of a TVAS are largely academic</u>.
>
> For your information however, I can confirm that our analysis to date of the British Steel Scheme has shown that annual investment returns of <u>typically around 8.0% p.a.</u> are required in order to match the benefits available at 65 from the 'current' British Steel scheme. Given the terms are due to change for the worse however, it follows that the required growth rate to match the British Steel 2 scheme will be lower." [emphasis added]

4.74 This templated wording appears in the Suitability Reports for five of the BSPS customers for whom no TVAS was prepared. For seven BSPS customers, a TVAS was prepared but no reference is made in the Suitability Report to the customer-specific analysis. Instead, the Suitability Reports for these customers also contains the templated wording above.

4.75 COBS 19.1.2R requires that Pensions Transfer clients are provided with a TVAS which contains sufficient information to enable them to make an informed decision. It also requires that a firm takes reasonable steps to ensure that the customer understands the comparison. Mr Cobill accepted that TVAS comparisons would always yield different return figures for different customers. However, customers who were not provided with a TVAS were given an imprecise and potentially inaccurate figure of a typical annual return of 8%. Customers were entitled to receive a precise comparison, taking into account their personal circumstances and evaluating the benefits of the ceding scheme with those of the receiving scheme. Without such comparison, customers were deprived of information which would have increased their level of understanding in the decision-making process. Even where such a comparison was undertaken, IFM did not in all cases provide customer-specific analysis to their customers.

4.76 The templated wording used in the Suitability Reports downplayed the importance of the TVAS and appears dismissive of the method by which the customer is able to place a quantitative value on the guaranteed benefits being given up. Moreover, even where no TVAS report was prepared, the Suitability Reports for BSPS customers included a section headed "*Important Notes about the TVAS Report*" which said that the provision of the TVAS was required by the FCA and referred the customer "*to the full TVAS report for detailed information*" about the basis on which the TVAS was prepared. Overall, IFM failed to take reasonable steps to ensure that customers received a TVAS, that they understood the comparison and that the Suitability Reports were clear and not misleading in describing the comparison.

Compressed BSPS advice process exacerbated information gathering and advice failings

4.77 The 18 files reviewed by the Authority exemplify the compressed approach taken by IFM to Pension Transfer advice in the latter part of 2017. Of the 14 BSPS customers within the sample:

(a) all of them signed their BSPS discharge forms at their first meeting with IFM;

(b) 12 (85%), had no further meetings with IFM; and

(c) Six (42%), signed the fact-find, had their first and only meeting, received their Personal Recommendation to transfer and signed the discharge forms all on the same day.

4.78 In interview, Mr Hofstetter described the process set out at paragraph 4.77(c) above as "*not acceptable*" and "*wholly inappropriate*". However, IFM had no policy in place to prevent this compressed approach being adopted. There is a clear connection between the reduced time afforded to customers and IFM's failure to obtain necessary information and its provision of unsuitable Pension Transfer advice.

Non-specific Customer Objectives

4.79 Customer objectives were often recorded in a generic way suggesting a standardised templated approach. In accordance with COBS 9.4.7R, IFM was obliged to set out in the Suitability Report, as a minimum, the customer's demands and needs; why it had concluded that the transfer was suitable for the customer having regard to the information provided by the customer; and any possible disadvantages of the transaction for the customer. In other words, the report was a written record of the customer's circumstances and the adviser's Personal Recommendation and the reasons for it.

4.80 The Suitability Reports reviewed by the Authority contained little evidence to suggest that the stated objectives of the customers had been properly explored, scrutinised and challenged by the adviser to ensure they were appropriate and achievable, particularly the desire for flexibility. The underlying reason for the customer objectives was not always recorded meaning the driver for transfer could not be assessed; alternative means of achieving the aim or the appropriate importance to attach to the objective cannot be evaluated.

4.81 All apart from one of IFM's Suitability Reports for BSPS customers reviewed by the Authority gave in the first instance the customer's primary objective as "*Transfer your defined benefit pension to a money purchase pension plan to provide greater flexibility when drawing benefits from your pension fund*". In 9 out of 14 of these Suitability Reports, the customer's recorded objectives were substantively the same. Moreover, 11 of the 14 BSPS Suitability Reports reviewed contained identical reasons for the recommendation to transfer. In all 14 cases, the warnings of the possible disadvantages were identical.

4.82 Mr Cobill sought to justify similarities in advice by reference to similarities in the BSPS customers' circumstances. However, the circumstances of every customer were unique. The Suitability Reports failed to reflect these differences in sufficient detail or to explain to customers how IFM had taken into account the information provided by the customer in reaching the conclusion that the advice was suitable. Important elements of the rationale for transfer were highly templated and the Suitability Reports do not clearly communicate the reasons for IFM's advice.

Incorrect information about the PPF given in Suitability Reports

4.83 If BSPS members did not opt for BSPS 2 or to transfer out of the BSPS, the default outcome was to enter into the PPF and receive compensation in lieu of a pension. Nine out of the 14 Suitability Reports for BSPS customers reviewed by the Authority contained incorrect information about the benefits available to BSPS members entering into the PPF. Early retirement would always have been available as an option for those BSPS members who went into the PPF. However, nine Suitability Reports used templated wording with incorrect information on that point, as follows:

(a) in the first in time (advice given in July 2017) the report stated that on the scheme entering the PPF, "*the option of early retirement will be lost*";

(b) in the next six (advice given in August, September and October 2017) the reports stated that "Early retirement is unlikely to be an option under the PPF" (and stated that the terms of BSPS 2 in this context were as yet unknown); and

(c) in the next two (advice given in October and November 2017) the reports stated that "Early retirement will not be an option under the PPF" (but stated that it would under BSPS 2).

4.84 Of the five remaining customer files reviewed by the Authority, one Suitability Report does not address the customer's stated concerns that early retirement may not be available under the PPF, and the remaining four (all of which were prepared in November and December 2017) correctly state that early retirement was an option under the PPF. It appears from these four files that IFM corrected the wording regarding the availability of early retirement in the PPF by at least early November 2017 and, based on some IFM customer Suitability Reports obtained by the Authority outside its file review exercise, it appears that some Suitability Reports contained the correct information as early as September 2017. Regardless of when exactly the error was realised, IFM allowed Suitability Reports containing incorrect information to be provided to customers and did not subsequently write to those customers to correct the position.

The materiality of the PPF issue

4.85 Early retirement was a common objective among BSPS members. In that context, for IFM to wrongly advise its BSPS customers at any stage in the advice process that early retirement was either unavailable or unlikely to be available in the PPF created a significant risk that members' decisions to transfer out of their DBPSs would be made or maintained on a materially false basis. The mistake also had the potential to make the riskier option of a Pension Transfer seem more attractive than it might otherwise to cautious BSPS members. In some cases, the templated wording in the Suitability Report risked making it appear that the BSPS member might not be able to retire early at all unless they transferred out of the BSPS altogether. The Suitability Reports therefore failed to meet the requirements of COBS 4.2.1R to be clear, fair and not misleading.

IFM's provision of Suitability Reports to customers

4.86 COBS 9.4.7R required the Suitability Reports prepared by IFM to, at a minimum, specify the client's demands and needs, explain why IFM had concluded that the transaction recommended was suitable given the information provided by the customer, and explain the possible disadvantages of the transaction for the customer. Additionally, COBS 19.1.2R required IFM to prepare analysis comparing the benefits likely to be paid under the customer's DBPS with the benefits afforded by a personal pension or other scheme recommended by IFM. That comparison had to include enough information to enable the customer to make an informed decision and IFM had to take reasonable steps to ensure the customer understood the comparison and IFM's advice. IFM was also required to give the customer a copy of the comparison in good time and in any case no later than when the key features document was provided, and therefore in good time before the sale of the personal pension scheme.

4.87 The Authority would expect a firm paying proper regard to the interests of its customers to consider the purpose of the Suitability Report and the transfer comparison required by the COBS rules, and to ensure that these are provided in a timely manner so as to enable its customers to make an informed decision as to whether to give up the benefits of their DBPS. This is consistent with the obligation placed on firms by COBS 19.1.2R to take reasonable steps to ensure that their customers understand any comparison provided and the firm's advice.

4.88 Contrary to this, in 184 out of 206 cases in which IFM recommended a transfer, IFM provided customers with a Suitability Report after the forms to effect the transfer were submitted to BSPS.

4.89 Moreover, the Authority has not seen evidence to suggest that customers were provided with TVAS reports in their meetings with IFM. In any event, in 42 of the 184 cases there was either no TVAS prepared or the date of the TVAS is after any meeting(s) that the customer had with IFM. This means that, in at least 42 cases, customers made an irreversible decision to give up the benefits of their DBPS without having been provided with their Suitability Report or the transfer comparison required by the COBS rules.

4.90 For example, Mr M received a Personal Recommendation to transfer at his first and only meeting with Mr Cobill on 11 September 2017. IFM received a completed fact find from Mr M at this meeting and Mr M signed the BSPS transfer documents on the same date. Mr M's transfer forms were submitted to BSPS on 19 September 2017. IFM prepared a TVAS report and the Suitability Report for Mr M on 25 September 2017. However, Mr M was not provided with the Suitability Report until 22 November 2017, more than two months after his transfer forms were submitted to BSPS. Mr M therefore made the decision to transfer out of his DBPS based on one meeting with Mr Cobill.

4.91 In 202 cases, customers received the Suitability Report after they had received a Personal Recommendation and signed the discharge forms to effect the transfer of their DBPS. Moreover, in some cases there was a substantial delay (of up to 20 weeks) between a customer receiving a Personal Recommendation and being provided with a Suitability Report. The purpose of the Suitability Report is to provide the customer with a clearly set out explanation of the Personal Recommendation made by the adviser and the reasons for it, based on the customer's specific circumstances. The provision of Suitability Reports after discharge forms had been signed risked customers not giving proper consideration to the contents of the report.

Benefit derived by IFM

4.92 As noted at paragraph 4.27, IFM operated a contingent charging model for Pension Transfer advice, meaning that a customer paid for IFM's advice only if the customer transferred their defined benefit pension following its recommendation. The fee charged was typically 3% or 4% of the customer's CETV and was paid out of the transferred funds. This was subject to a £5,000 cap for BSPS customers.

4.93 IFM's total revenue from DBPS transfer advice over the Relevant Period, both in the form of initial charges to pension transfer customers and ongoing charges levied on those customers for investment advice given after the customers had transferred their pensions, was £1,502,400.61. This led to an annual increase in turnover for IFM of approximately 150%, from £636,317 in the accounting period 2016-17 to £1,617,339 in the period 2017-18.

4.94 IFM's total revenue as at 31 July 2022 from the DBPS transfer advice it provided during the Relevant Period was £1,911,121.20. Out of this sum, IFM has paid total commission of £1,139,487.01 to Mr Cobill in connection with advice given to its Pension Transfer customers during the Relevant Period, and £5,726.24 to other advisers who provided ongoing investment advice to the Firm's Pension Transfer customers after the Relevant Period. IFM retained £765,907.95 after payment of such commission.

5. FAILINGS

5.1. The regulatory provisions relevant to this Notice are referred to in Annex A.

5.2. The Authority considers that, by reason of the matters described in section 4 of this Notice, IFM breached:

(a) During the Relevant Period, Principle 9, COBS 9.2.1R, COBS 9.2.2R, COBS 9.2.3R, COBS 9.2.6R, COBS 9.4.1R, COBS 9.4.7R and COBS 19.1.2R, in that it failed to take reasonable care to ensure the suitability of its advice for customers entitled to rely upon its judgement in relation to the transfer of their DBPSs.

(b) During the Relevant Period, Principle 6, COBS 4.2.1R, COBS 9.4.7R, and COBS 19.1.2R, in that it failed to pay due regard to the interests of customers and treat them fairly.

(c) During the Relevant Period, Principle 3, SYSC 3.1.1R and SYSC 3.2.6R, to take reasonable care to organise its affairs responsibly and effectively, with adequate risk management systems.

5.3. In particular, in breach of Principle 9, in a significant proportion of cases, IFM failed to comply with the Authority's rules and ensure the suitability of advice in a significant proportion of Pension Transfer cases in that:

(a) IFM failed to obtain the necessary information from the customer, particularly information concerning the customer's financial situation. That meant that IFM was unable properly to assess the customer's income needs in retirement, the extent of their reliance on the retirement income provided by their DBPS, or their capacity for loss. Those issues went to the heart of whether a Pension Transfer was suitable for a customer;

(b) IFM failed properly to assess, on the basis of the information obtained, or give due consideration to, whether the recommendation was suitable for the customer and in their best interests and in particular whether:

(i) the customer could financially bear the risks involved in a Pension Transfer. IFM advised customers with no source of retirement income other than their DBPS and the state pension, and with cautious attitudes to risk, to give up their guaranteed benefits without sufficient justification;

(ii) the Pension Transfer recommended met the customer's investment objectives. In some cases, there was no evidence of IFM having properly scrutinised a customer's objectives or giving proper consideration to whether the Pension Transfer met the customer's retirement goals, nor any evidence of due consideration by IFM of the customer's risk-taking preferences or their risk profile;

(iii) 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 the customer's lack of experience and knowledge in that context. IFM advised steel industry employees with limited experience or knowledge of investments to give up the guaranteed benefits of their DBPS without ensuring a proper understanding; and

(iv) the transfer analysis supported a recommendation to transfer out of the ceding scheme;

(c) IFM failed to ensure that any or any adequate TVAS was prepared for and explained adequately to all customers comparing the benefits likely to be paid under the DBPS with benefits afforded by the personal pension or other pension scheme into which it was proposed that the customer should transfer. In seven out of 14 BSPS cases reviewed, IFM carried out no comparison between the schemes of the kind required by the rules. This was the case with 34% of the 206 BSPS customer files where IFM made a Personal Recommendation to transfer. In other cases, IFM carried out a comparison but did not take all relevant circumstances into account. Where a comparison was carried out or a 'typical' critical yield cited, IFM failed properly to explain its significance, instead describing it as 'academic'.

5.4. IFM also failed, in breach of Principle 6 and certain rules in COBS, to ensure that it paid due regard to the interests of customers and treat them fairly. IFM was required to provide its customers with a Suitability Report, which is a written record that should clearly set out customer's circumstances and the adviser's Personal Recommendation, along with the reasons for it. IFM was also required to provide customers with a transfer analysis to compare the benefits likely to be paid under the DBPS with benefits afforded by the recommended pension to which the customer should transfer. IFM was required to take reasonable steps to ensure the customer understood the advice and any comparison information provided. Contrary to this and in breach of Principle 6:

(a) the Suitability Reports provided to customers by IFM used wording that was almost entirely derived from templates, which meant that important elements of IFM's advice were generic and that Suitability Reports failed properly to explain the rationale for the advice;

(b) many of the Suitability Reports for BSPS members included incorrect information that early retirement was either unavailable or unlikely to be available in the Pension Protection Fund; and

(c) IFM failed to ensure that Suitability Reports and the transfer analysis required by the COBS rules were provided to BSPS customers in a timely manner so that customers were properly able to make an informed decision. In approximately 184 cases where a transfer was recommended, IFM's customers took the decision to give up the benefits of their DBPS and submitted transfer documentation to BSPS without having been provided with a Suitability Report. In almost all cases, Suitability Reports were provided after customers had signed the forms required to effect a transfer and received a Personal Recommendation, which risked customers not giving proper consideration to the contents of the report.

5.5. In breach of Principle 3, IFM failed to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems, as follows:

(a) IFM failed to put in place adequate policies and procedures to govern its pension advice process and the oversight of that process. Instead, IFM placed excessive reliance on the expertise and experience of Mr Cobill as IFM's sole Pension Transfer Specialist, in circumstances where IFM lacked capacity to monitor or oversee the Pension Transfer advice he provided;

(b) IFM failed to ensure that Suitability Reports, that were prepared by a member of back office staff, were reviewed by the adviser or subject to any compliance checks before being issued to customers;

(c) IFM failed to ensure that there were appropriate internal compliance checks (such as regular file reviews) conducted on the advice given by Mr Cobill;

(d) IFM also failed to ensure that that advice received meaningful external scrutiny;

(e) IFM had no systems or controls to ensure that Suitability Reports and transfer analysis were provided to customers in a timely manner and in accordance with the requirements of COBS; and

(f) IFM failed to respond appropriately to the file review conducted by an external compliance consultant in October 2017 which identified issues with the Pension Transfer advice given by Mr Cobill to one of IFM's customers.

5.6. These deficiencies in IFM's systems and controls were exacerbated by the significant number of BSPS customers advised by the Firm. The increase in the volume of business exposed the following additional shortcomings in the Firm's systems and controls:

(a) BSPS customers significantly increased the volume of Pension Transfer business undertaken by IFM. However, the Firm did not acknowledge the increased risk that this posed, when that risk should have been obvious to it; and

(b) IFM responded to the increased demand by streamlining its advice process, while failing to bolster its monitoring, oversight or compliance arrangements. That further increased the risk of its customers receiving non-compliant advice.

5.7. IFM's failure to take reasonable care to organise and control its affairs responsibly and effectively with adequate risk management systems and put customers at risk of receiving unsuitable advice – as in fact happened in a significant proportion of Pension Transfer cases.

6. SANCTION

Financial penalty

6.1. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of DEPP. In respect of conduct occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

Step 1: disgorgement

6.2. Pursuant to DEPP 6.5A.1G, at Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this.

6.3. IFM derived direct financial benefit from its Pension Transfer advice in the form of initial charges to Pension Transfer customers and ongoing charges levied on those customers by IFM for investment advice given after the customers had transferred out of their DBPS. IFM's total revenue as at 31 July 2022 from the DBPS transfer advice it provided during the Relevant Period was £1,911,121.20. Out of this sum, IFM has paid total commission of £1,139,487.01 to Mr Cobill in connection with advice given to its Pension Transfer customers during the Relevant Period, and £5,726.24 to other advisers who provided ongoing investment advice to the Firm's Pension Transfer customers after the Relevant Period. IFM retained £765,907.95 after payment of such commission.

6.4. Of this sum, the Authority considers that £583,521.60 was the benefit IFM derived directly from its breaches, being an amount reflective of the proportion of advice in respect of which IFM failed to comply with relevant regulatory requirements regarding Pension Transfer advice.

6.5. The Authority considers that such amount should be reduced to account for payments by IFM amounting to £76,442.80 by way of excesses on its professional indemnity insurance in relation to redress paid to 11 BSPS customers who received unsuitable Pension Transfer advice from the Firm, following determinations of the FOS.

6.6. The Authority has charged interest on IFM's benefit at 8% per year from the end of the Relevant Period to 19 September 2023, amounting to £233,061.75.

6.7. Step 1 is therefore £740,140 (rounded down to the nearest £1).

Step 2: the seriousness of the breach

6.8. Pursuant to DEPP 6.5A.2G, at Step 2 the Authority determines a figure that reflects the seriousness of the breach. That figure is based on a percentage of the firm's revenue from the relevant products or business area where that revenue is indicative of the harm or potential harm that its breach may cause.

6.9. The period of IFM's breach of Principles 9 and 3 was from 8 June 2015 to 22 December 2017. The period of IFM's breach of Principle 6 was from 4 April 2017 to 22 December 2017. Given the breach of Principle 6 is closely connected to and concerns the same business area as the breaches of Principle 3 and 9, and given the overlap in the relevant periods, the Authority considers it appropriate to impose a single penalty in respect of the breaches of Principle 3, 6 and 9. The Authority considers that the revenue generated by IFM is indicative of the harm or potential harm caused by its breach. The Authority has therefore determined a figure based on a percentage of IFM's relevant revenue. IFM's relevant revenue is the revenue derived by IFM during the period of the breach. The Authority considers IFM's relevant revenue for this period to be £1,502,400.61.

6.10. In deciding on the percentage of the relevant revenue that forms the basis of the step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:

Level 1 – 0%

Level 2 – 5%

Level 3 – 10%

Level 4 – 15%

Level 5 – 20%

6.11. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly.

Impact of the breach

6.12. IFM gained a substantial, direct benefit from its breach. Over the Relevant Period, IFM's total revenue from transfer advice in respect of DBPS was £1,502,400.61 (DEPP 6.5A.2G(6)(a)).

6.13. IFM's breach caused a significant risk of loss, as a whole, to consumers who transferred out of their DBPS as a result of its advice. IFM's 307 Pension Transfer customers held pensions with CETVs totalling more than £110 million. IFM's BSPS customers transferred out CETVs with a total value of more than £93 million. IFM's breach placed a large proportion of those customers' funds at a significantly increased risk of loss (DEPP 6.5A.2G(6)(b)).

6.14. IFM's breach caused a significant risk of loss to individual consumers who transferred out of their DBPS as a result of its advice. The average CETV of IFM's Pension Transfer customers was more than £361,000. The average CETV of IFM's BSPS customers was more than £455,000. For many of IFM's customers, their DBPS was their most valuable asset and was their only retirement provision other than their state pension (DEPP 6.5A.2G(6)(c)).

6.15. IFM's breach affected particularly vulnerable people, namely BSPS members, who made up the majority of its Pension Transfer advice customers during the Relevant Period and many of whom were in a vulnerable position due to the uncertainty surrounding the future of the BSPS (DEPP 6.5A.2G(6)(d)).

Nature of the breach

6.16. IFM's breach was continuous and committed over the course of more than two years, in respect of many separate instances of Pension Transfer advice (DEPP 6.5A.2G(7)(b)).

6.17. IFM's breach of Principle 3 revealed serious and systemic weaknesses in IFM's procedures, management systems and internal controls relating to its Pension Transfer advice process (DEPP 6.5A.2G(7)(c)).

Whether the breach was committed deliberately or recklessly

6.18. IFM's breach was committed negligently rather than deliberately or recklessly (DEPP 6.5A.2G(12)(e)).

Level of seriousness

6.19. DEPP 6.5A.2G(11) lists factors likely to be considered 'level 4 or 5 factors'. Of these, the Authority considers the following factors to be relevant:

(a) IFM's breach caused a significant risk of loss to individual consumers who transferred out of their DBPS as a result of its advice (DEPP 6.5A.2G(11)(a)).

(b) IFM's breach of Principle 3 revealed serious and systemic weaknesses in IFM's procedures, management systems and internal controls (DEPP 6.5A.2G(11)(b)).

6.20. DEPP 6.5A.2G(12) lists factors likely to be considered 'level 1, 2 or 3 factors'. Of these, the Authority considers the following factor to be relevant:

(a) IFM's breach was committed negligently (DEPP 6.5A.2G(12)(e)).

6.21. Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 4 and so the Step 2 figure is 15% of £1,502,400.61.

6.22. Step 2 is therefore £225,360.09.

Step 3: mitigating and aggravating factors

6.23. Pursuant to DEPP 6.5A.3G, at Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the breach.

6.24. The Authority has considered whether any of the mitigating or aggravating factors listed in DEPP 6.5A.3G, or any other such factors, apply in this case and has concluded that none applies to a material extent, such that the penalty ought to be increased or decreased.

6.25. Step 3 is therefore £225,360.09.

Step 4: adjustment for deterrence

6.26. Pursuant to DEPP 6.5A.4G, if the Authority considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.

6.27. The Authority considers that the Step 3 figure of £225,360.09 represents a sufficient deterrent to IFM and others, and so has not increased the penalty at Step 4.

6.28. Step 4 is therefore £225,360.09.

Step 5: settlement discount

6.29. Pursuant to DEPP 6.5A.5G, if the Authority and the firm on whom a penalty is to be imposed agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and the firm reached agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

6.30. The Authority and IFM reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure.

6.31. Step 5 is therefore £157,752.06. This is to be rounded down to £157,700.

Serious financial hardship

6.32. Pursuant to DEPP 6.5D.1G, the Authority will consider reducing the amount of a penalty if a firm will suffer serious financial hardship as a result of having to pay the entire penalty. In deciding whether it is appropriate to reduce the penalty, the Authority will have regard, amongst other things, to the firm’s financial strength and viability.

6.33. IFM has recently gone into administration. At this early stage of the administration process, the Authority acknowledges that there is uncertainty surrounding the position of IFM’s administration and the adjudication of creditors’ claims. Therefore, the Authority has not reduced the financial penalty to £nil in this case. Instead, the

Authority will give preference to creditors (some of whom may be consumers) with a valid provable debt, ahead of its financial penalty, in order to maximise the funds available for redress. The Authority will keep its claim under review in order that claims of legitimate creditors are satisfied prior to any funds being used to pay some, or all, of the financial penalty. The Authority considers that this would best advance its operational objectives as set out in section 1B(3) of the Act, which includes the operational objective of securing an appropriate degree of protection for consumers (section 1C of the Act).

Penalty

6.34. The Authority hereby imposes a total financial penalty of £897,840 (the Step 1 figure added to the Step 5 figure) on IFM for breaching Principles 3, 6 and 9.

7. PROCEDURAL MATTERS

7.1. This Notice is given to IFM under and in accordance with section 390 of the Act.

7.2. The following statutory rights are important.

Decision maker

7.3. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.

Manner and time for payment

7.4. The financial penalty must be admitted in the administration of IFM by no later than 14 days from the date of the Final Notice.

7.5. The Authority acknowledges that there is some uncertainty surrounding the position of IFM's administration and the adjudication of creditors' claims. The Authority will give preference to creditors (some of whom may be consumers) with a valid provable debt, ahead of its financial penalty, in order to maximise the funds available for redress. The Authority will then keep it claim under review in order that claims of legitimate creditors are satisfied prior to any funds being used to pay some, or all, of the financial penalty.

Publicity

7.6. Sections 391(4), 391(6) and 391(7) of the Act apply to the publication of information about the matter to which this Notice relates. Under those provisions, the Authority must publish such information about the matter to which this Notice relates as the Authority considers appropriate. The information may be published in such manner as the Authority considers appropriate. However, the Authority may not publish information if such publication would, in the opinion of the Authority, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

7.7. The Authority intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

Authority contacts

7.8. For more information concerning this matter generally, contact Laurenz Maurer (direct line: 020 7066 8096 / email: Laurenz.Maurer@fca.org.uk).

Nicholas Hills

Head of Department

Financial Conduct Authority, Enforcement and Market Oversight Division

ANNEX A

RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. RELEVANT STATUTORY PROVISIONS

1.1. The Authority's statutory objectives, set out in section 1B(3) of the Act, include the operational objective of securing an appropriate degree of protection for consumers (section 1C).

1.2. Section 206(1) of the Act provides:

"*If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act… it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate*."

2. RELEVANT REGULATORY PROVISIONS

Principles for Businesses

2.1. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Authority's Handbook. They derive their authority from the Authority's rule-making powers set out in the Act.

2.2. During the Relevant Period, Principle 3 stated:

"*A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems*."

2.3. During the Relevant Period, Principle 6 stated that:

"*A firm must pay due regard to customers and treat them fairly*".

2.4. During the Relevant Period, Principle 9 stated:

"*A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment*."

Conduct of Business Sourcebook

2.5. The following rules and guidance in COBS (as were in place during the Relevant Period) are relevant to assessing suitability of Pension Transfer advice given to customers.

2.6. COBS 2.1.1R states that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.

2.7. COBS 4.2.1R(1) states that a firm must ensure that a communication or a financial promotion is fair, clear and not misleading.

2.8. COBS 9.2.1R states that:

(1) A firm must take reasonable steps to ensure that a personal recommendation, or a decision to trade, is suitable for its client.

(2) When making the personal recommendation or managing his investments, the firm must obtain the necessary information regarding the client's:

(a) knowledge and experience in the investment field relevant to the specific type of designated investment or service;

(b) financial situation; and

(c) investment objectives;

so as to enable the firm to make the recommendation, or take the decision, which is suitable for him.

2.9. COBS 9.2.2R (1) states that a firm must obtain from the client such information as is necessary for the firm to understand the essential facts about him and have a reasonable basis for believing, giving due consideration to the nature and extent of the service provided, that the specific transaction to be recommended, or entered into in the course of managing:

(a) meets his investment objectives;

(b) is such that he is able financially to bear any related investment risks consistent with his investment objectives; and

(c) is such that he has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his portfolio.

2.10. COBS 9.2.2R (2) states that the information regarding the investment objectives of a client must include, where relevant, information on the length of time for which he wishes to hold the investment, his preferences regarding risk taking, his risk profile, and the purposes of the investment.

2.11. COBS 9.2.2R(3) states that the information regarding the financial situation of a client must include, where relevant, information on the source and extent of his regular income, his assets, including liquid assets, investments and real property, and his regular financial commitments.

2.12. COBS 9.2.3R states that the information regarding a client’s knowledge and experience in the investment field includes, to the extent appropriate to the nature of the client, the nature and extent of the service to be provided and the type of product or transaction envisaged, including their complexity and the risks involved, information on:

(1) the types of service, transaction and designated investment with which the client is familiar;

(2) the nature, volume, frequency of the client’s transactions in designated investments and the period over which they have been carried out;

(3) the level of education, profession or relevant former profession of the client.

2.13. COBS 9.2.6R states that if a firm does not obtain the necessary information to assess suitability, it must not make a personal recommendation to the client or take a decision to trade for him.

2.14. COBS 9.4.1R states that a firm must provide a suitability report to a retail client if the firm makes a personal recommendation to the client and the client enters into a pension transfer, pension conversion or pension opt-out.

2.15. COBS 9.4.7R states that the suitability report must, at least:

(1) specify the client's demands and needs;

(2) explain why the firm has concluded that the recommended transaction is suitable for the client having regard to the information provided by the client;

and

(3) explain any possible disadvantages of the transaction for the client.

2.16. COBS 19.1.1R states that if an individual who is not a pension transfer specialist gives advice or a personal recommendation about a pension transfer, a pension conversion or pension opt-out on a firm's behalf, the firm must ensure that the recommendation or advice is checked by a pension transfer specialist.

2.17. COBS 19.1.2R states that a firm must:

(1) compare the benefits likely (on reasonable assumptions) to be paid under a defined benefits pension scheme or other pension scheme with safeguarded benefits with the benefits afforded by a personal pension scheme, stakeholder pension scheme or other pension scheme with flexible benefits, before it advises a retail client to transfer out of a defined benefits pension scheme or other pension scheme with safeguarded benefits;

(2) ensure that that comparison includes enough information for the client to be able to make an informed decision;

(3) give the client a copy of the comparison, drawing the client's attention to the factors that do and do not support the firm's advice, in good time, and in any case no later than when the key features document is provided; and

(4) take reasonable steps to ensure that the client understands the firm's comparison and its advice.

2.18. COBS 19.1.3G explains the information that should be contained within a comparison. In particular, the comparison should:

(1) take into account all of the retail client's relevant circumstances;

(2) have regard to the benefits and options available under the ceding scheme and the effect of replacing them with the benefits and options under the proposed scheme;

(3) explain the assumptions on which it is based and the rates of return that would have to be achieved to replicate the benefits being given up;

(4) be illustrated on rates of return which take into account the likely expected returns of the assets in which the retail client's funds will be invested; and

(5) where an immediate crystallisation of benefits is sought by the retail client prior to the ceding scheme’s normal retirement age, compare the benefits available from crystallisation at normal retirement age under that scheme.

2.19. COBS 19.1.6G states that when advising a client who is, or is eligible to be, a member of a Defined Benefit Pension Scheme or other scheme with safeguarded benefits whether to transfer, convert or opt-out, a firm should start by assuming that a transfer, conversion or opt-out will not be suitable. A firm should only consider a transfer, conversion or opt out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the client’s best interests.

2.20. COBS 19.1.7G states that when a firm advises a retail client on a pension transfer, pension conversion or pension opt-out, it should consider the client’s attitude to risk including, where relevant, in relation to the rate of investment growth that would have to be achieved to replicate the benefits being given up.

Senior Management Arrangements, Systems and Controls

2.21. The following rules and guidance in SYSC (as were in place during the relevant period), are relevant to assessing whether the firm took reasonable care to organise its affairs responsibly and effectively, with adequate risk management systems.

2.22. SYSC 3.1.1R states that a firm must take care to establish and maintain such systems and controls as are appropriate to its business.

2.23. SYSC 3.2.6R states that a firm must take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system and for countering the risk that the firm might be used to further financial crime.

DEPP

2.24. Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's statement of policy with respect to the imposition and amount of financial penalties under the Act.

The Enforcement Guide

2.25. The Enforcement Guide sets out the Authority's approach to exercising its main enforcement powers under the Act.

2.26. Chapter 7 of the Enforcement Guide sets out the Authority's approach to exercising its power to impose a financial a penalty.