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## FINAL NOTICE

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To: **Philip Pryke**  
IRN: **PXP00025**  
Date: **28 November 2024**

### 1. ACTION

- 1.1. For the reasons given in this Final Notice, the Authority hereby:
- a. imposes on Mr Philip Pryke ("Mr Pryke") a financial penalty of £1,377,968 pursuant to section 66 of the Act; and
  - b. makes an order, pursuant to section 56 of the Act, prohibiting Mr Pryke from performing any function in relation to any regulated activity carried on by an authorised person, exempt person, or exempt professional firm.

### 2. SUMMARY OF REASONS

#### Overview

- 2.1 The Authority expects individuals in senior management roles at authorised firms to act with integrity when managing the business for which they are responsible. When individuals in these roles at financial advice firms fail to act with integrity, the firm's clients are exposed to a significant risk of financial detriment.
- 2.2 C&I was a financial advice firm based in Leeds, West Yorkshire.

- 2.3 Between 2 April 2015 and 25 June 2019 (“the Relevant Period”), C&I advised 986 customers to transfer out of their Defined Benefit Pension Scheme (“DBPS”) to an alternative pension arrangement, notwithstanding the Authority’s guidance which created a presumption of unsuitability in respect of transferring out of a Defined Benefit Pension arrangement.
- 2.4 Throughout the Relevant Period, Mr Pryke acted as a CF30 (Customer) and qualified Pension Transfer Specialist (“PTS”) at C&I and in this capacity he gave advice recommending 913 Pension Transfers.
- 2.5 Mr Pryke was also approved to perform both the CF1 (Director) and CF10 (Compliance Oversight) functions at C&I, and therefore had responsibility for oversight of the Firm’s compliance with regulatory requirements and standards.
- 2.6 In his performance of these roles the Authority considers that Mr Pryke failed to act with integrity, paying scant regard to regulatory standards and requirements, choosing instead to prioritise the Firm’s profitability (which took over £8 million in fees) over the interests of its customers, thereby enabling him to fund a luxurious lifestyle.

Mr Pryke’s failings in his role as a PTS and CF30 (Customer)

- 2.7 The Authority considers that, during the Relevant Period, Mr Pryke failed to comply with Statement of Principle 1, in that he was reckless and thereby failed to act with integrity in the performance of his role as a CF30 (Customer) and PTS. His failings meant that the Personal Recommendations he made did not comply with regulatory requirements and standards, which ultimately created a significant risk that his advice, that customers should transfer out of their DBPS, would not be suitable for them.
- 2.8 In particular, Mr Pryke’s actions in relation to giving Personal Recommendations were reckless because he:
- (1) made Personal Recommendations despite having failed to obtain from customers adequate information relating to their financial situation, including their additional resource and current expenditure details, that was necessary for him properly to assess whether it would be suitable for them to transfer out of their DBPS;
  - (2) made Personal Recommendations despite having failed to adequately assess customers’ attitudes to investment and transfer risk, which was necessary for him properly to assess whether it would be suitable for them to transfer out of their DBPS; and

- (3) approved Suitability Reports which failed to provide his customers with sufficient information from the transfer value analysis (“TVAS”) to enable them to be able to make an informed decision about whether to complete a Pension Transfer;

despite knowing that each of these steps was a necessary prerequisite to providing a Personal Recommendation.

2.9 Furthermore, Mr Pryke provided unsuitable Pension Transfer advice in the one file in the Sample where there was sufficient information for the Authority to make such an assessment.

2.10 The Authority considers Mr Pryke’s failings as a CF30 (Customer) and PTS to be serious because they demonstrate his reckless disregard of the obligations required to properly discharge these roles. Both roles provide an important regulatory protection for consumers.

Mr Pryke’s failings in his role as a CF1 (Director) and CF10 (Compliance Oversight)

2.11 The Authority also considers that, during the Relevant Period, Mr Pryke failed to comply with Statement of Principle 1, in that he was reckless and thereby failed to act with integrity in the performance of his roles as a CF1 (Director) and as CF10 (Compliance Oversight).

2.12 In particular, Mr Pryke’s actions in relation to his oversight of the Firm’s Pension Transfer business were reckless because he failed to take any proper steps to ensure that:

- (1) the Firm adequately assessed the suitability of the Pension Transfer for the customer, including adequately assessing customers’ objectives and attitude to risk;
- (2) the customer fact find processes used by the Firm were adequate and appropriate, and as a result insufficient customer information was gathered to assess suitability;
- (3) an adequate and appropriate compliance monitoring system was in place at the Firm to ensure compliance with the Authority’s requirements and standards for Pension Transfer advice;
- (4) the Firm maintained adequate customer files and business records; and
- (5) the Firm allocated adequate resources to C&I’s compliance function and to the CF10 (Compliance Oversight) role;

despite knowing that his failure to do so increased the risk that the Firm might provide unsuitable Pension Transfer advice to its customers, in breach of several COBS rules applicable to the Firm, and despite the significant increase in the number of customers seeking such advice during the Relevant Period.

- 2.13 The Authority considers Mr Pryke's failings both as a CF1 (Director) and as a CF10 (Compliance Oversight) to be serious because they continued unabated throughout the Relevant Period with the result that a large number of the Firm's customers suffered, or were exposed to the risk of suffering, serious financial detriment.

#### Scale of C&I's Defined Benefit ("DB") Pension Transfer business

- 2.14 During the Relevant Period, C&I earned over £8.1 million in gross revenue from those customers that it advised to make DB Pension Transfers. This revenue consisted entirely of "contingent initial fees" (i.e. the Firm only received these fees from customers who decided to make a DB Pension Transfer).
- 2.15 In the 12 months from 1 October 2017 up to 30 September 2018, Pension Transfer advice comprised at least 76% of the Firm's revenue.
- 2.16 The total value of transferred funds on which C&I gave advice was over £200 million, with an average transfer value of just under £200,000.

#### The Authority's review of C&I's Pension Transfer advice

- 2.17 The Authority reviewed 25 of C&I's completed Pension Transfer advice files from the Relevant Period relating to 20 customers (five of whom each held two DBPSS on which they received advice) ("the Sample"). For a significant proportion of these customers, their pension fund was their most valuable asset, and many had limited additional resource or other pension provision. The Authority concluded that none of the files were compliant with regulatory rules and guidance relating to the suitability of Pension Transfer advice. Mr Pryke was the PTS for 23 of these files.

#### Financial Services Compensation Scheme ("FSCS") claims and awards

- 2.18 As at 20 September 2023, the FSCS had received 1,300 claims made by C&I customers who were advised on DB Pension Transfers, had upheld 766 such claims against C&I and had paid out over £42.5 million in compensation to its customers. Had it not been for the compensation limit of £85,000, the total compensation payable to customers would have been approximately £67 million. Mr Pryke was identified as the PTS in 622 (81%) of those upheld claims.

2.19 In 305 cases, the FSCS awarded the claimant the maximum compensation available of £85,000.

#### Fitness and propriety

2.20 The Authority considers that Mr Pryke lacks fitness and propriety for the following reasons:

- (1) his failings as a CF30 (Customer) and a PTS were serious and demonstrated his reckless disregard towards properly discharging a role which is an important regulatory protection for consumers;
- (2) his failings as a CF1 (Director) and as a CF10 (Compliance Oversight) were serious and demonstrated a reckless disregard for ensuring that C&I complied with regulatory standards and expectations;
- (3) following an official investigation by another organisation, into his business affairs between 2009 and 2017, Mr Pryke entered into a formal settlement in March 2019 whereby he admitted that he had deliberately and dishonestly sought to rely on information that he knew to be false in order to avoid making payments in excess of £432,000 ("the Settlement");
- (4) Mr Pryke failed to notify the Authority of the Settlement nor the investigation which preceded it, in breach of Statement of Principle 4 which required him to disclose appropriately any information of which the Authority would reasonably expect notice; and
- (5) despite being notified that he was the subject of an enforcement investigation by the Authority, Mr Pryke failed without good reason to comply with an information requirement issued under Part XI of the Act.

2.21 The Authority considers that, for the reasons set out at paragraph 2.20 above, and as a result of the facts and matters set out in section 4 of this Notice, Mr Pryke has demonstrated a lack of honesty, regarding his conduct resulting in the Settlement, as well as a lack of integrity in his performance of his CF1 (Director), CF10 (Compliance Oversight) and CF30 (Customer) controlled functions, and is not a fit and proper person to perform any function in relation to any regulated activity carried on by an authorised person, exempt person, or exempt professional firm.

#### Seriousness

2.22 The Authority considers Mr Pryke's breaches of Statement of Principle 1 to be serious because thereby a large number of the Firm's customers suffered, or were

exposed to the risk of suffering, serious financial detriment, and from which breaches he benefitted directly by those customers' payment of substantial fees.

- 2.23 Mr Pryke's conduct was reckless towards ensuring his own and C&I's compliance with the Authority's rules and regulations.

#### Sanctions

- 2.24 The Authority has therefore decided to impose a financial penalty on Mr Pryke in the amount of £1,377,968 for his failure to comply with Statement of Principle 1, pursuant to section 66 of the Act.

- 2.25 As a result of Mr Pryke's lack of fitness and propriety, the Authority has also decided to:

(1) make an order, pursuant to section 56 of the Act, prohibiting Mr Pryke from performing any function in relation to any regulated activity carried on by an authorised person, exempt person, or exempt professional firm.

- 2.26 The Authority considers that making these orders is necessary in order to secure an appropriate degree of protection for consumers.

### **3. DEFINITIONS**

- 3.1 The definitions below are used in this Notice:

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

"APER" means the Authority's Statements of Principle for Approved Persons and Code of Practice for Approved Persons;

"Authority" means the Financial Conduct Authority;

"C&I" or "The Firm" means Capital & Income Solutions Limited (FRN: 462885) (dissolved);

"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;

"Defined Benefit Pension Scheme" or "DBPS" and "Defined Benefit" or "DB" 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 Decision Procedure and Penalties Manual, part of the Handbook;

“EG” means the Authority’s Enforcement Guide;

“the Feedback Letter” means a letter from the Authority to Mr Pryke dated 14 January 2021 which summarises the findings of the Authority’s review of the Sample, including detailed feedback on three of the customers within it;

“FSCS” means the Financial Services Compensation Scheme;

“the Handbook” means the Authority’s Handbook of rules and guidance;

“KFD” means the Key Features Document prepared by the personal pension provider which sets out, amongst other things, the potential plan value and retirement income under the scheme;

“Mr Pryke” means Mr Philip Pryke (Reference number: PXP00025) AKA Mr Philip Pryce;

“Normal Retirement Date” means the date (typically linked to the customer’s age, for example 65) on which the pension scheme is due to pay the customer their member benefits;

“PCLS” means pension commencement lump sum, the tax-free payment that members can take when they start to access their pension benefits, up to 25% of the value of the benefits being accessed;

“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” or “PTS” has the meaning given in the Handbook and is an individual who has passed the required examinations as specified in the Training and Competence Sourcebook part of the Handbook, and is employed by a firm to give advice on Pension Transfers, pension conversions and pension opt-outs or to check such advice in accordance with the provisions of COBS 19.1;

“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 PRA" means the Prudential Regulation Authority;

"the Principles" means the Authority's Principles for Businesses set out in the Handbook;

"RDC" means the Regulatory Decisions Committee of the Authority (see further under Procedural Matters below);

"the Relevant Period" means the period of 2 April 2015 to 25 June 2019;

"the Sample" means the 25 C&I Pension Transfer advice files reviewed by the Authority;

"significant influence function" means a function defined as such in SUP 10A.4.4;

"senior management function" means a function defined as such in section 59ZA of the Act;

"the Settlement" means the settlement entered into by Mr Pryke, dated 14 March 2019, following an official investigation by another organisation into his financial affairs;

"SYSC" means the part of the Authority's Handbook entitled "*Senior Management Arrangements, Systems and Controls*";

"the Visit" means the Authority's visit to C&I's offices on 25 June 2019;

"Statements of Principle" mean the Authority's Statements of Principle and Code of Practice for Approved Persons issued under section 64A(1)(a) of the Act;

"Statement of Principle 1" (as it applied during the Relevant Period) stated that an approved person must act with integrity in carrying out his accountable functions;

"Statement of Principle 2" (as it applied during the Relevant Period) stated that an approved person must act with due skill, care and diligence in carrying out his accountable functions;

"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;

"Tribunal" means the Upper Tribunal (Tax and Chancery Chamber);

"TVAS" means 'transfer value analysis' which was the comparison that a firm was required to carry out in accordance with COBS 19.1.2R when a firm gave advice,



or a Personal Recommendation about, amongst other things, a Pension Transfer (on 1 October 2018 the TVAS was replaced by a “Transfer value comparator”);

“TVAS Report” means the document that reports to the customer in respect of the comparison that firms were required to carry out in accordance with COBS 19.1.2R;

“VREQ” means an application by a person to the Authority under section 55L(1) of the Act for the imposition of requirements by the Authority; and

“the Warning Notice” means the warning notice given to Mr Pryke dated 16 November 2023.

#### **4. FACTS AND MATTERS**

##### **Background**

##### C&I (in liquidation)

4.1 C&I was authorised by the Authority in April 2007. During the Relevant Period it held a range of permissions to carry on regulated activities, including permission to advise on Pension Transfers. It operated from an office in Leeds, West Yorkshire.

4.2 Throughout the Relevant Period. Mr Pryke was a CF1 (Director) and significant shareholder of C&I with a 25% holding rising to 50% during the Relevant Period.

4.3 On 25 June 2019, the Authority visited C&I’s offices, following its monitoring of the DB Pension Transfer market and having identified C&I as a firm that had advised on a significant volume of DB Pension Transfers.

4.4 During the Visit the Authority identified significant concerns regarding the Firm’s business model, governance, systems and controls and DB Pension Transfer advice process.

4.5 Later that day, at the Authority’s request, the Firm entered into an undertaking whereby it agreed to immediately cease providing DB Pension Transfer advice. It subsequently applied for the imposition of requirements by the Authority (a VREQ) whereby it ceased:

- (1) advising on the conversion or transfer of pension benefits;
- (2) completing pipeline business in relation to the conversion or transfer of pension benefits; and
- (3) providing any confirmation that independent advice has been provided for the purposes of section 48 of the Pension Schemes Act 2015.

4.6 In January 2020, C&I went into liquidation and stopped taking on new business.

Volume of C&I's Pension Transfer activities and FSCS claims

4.7 During the Relevant Period, C&I advised at least 986 customers to transfer out of their DBPS, 882 (89%) of whom were advised by Mr Pryke. As at 20 September 2023, the FSCS had received 1,300 claims in relation to DB Pension Transfer advice provided by C&I and had paid out over £42.5 million in compensation on 766 successful claims.

Mr Pryke's experience and regulated functions

4.8 Mr Pryke has worked in the financial advice sector for approximately 40 years.

4.9 Between 1 November 2007 and 8 December 2019, Mr Pryke was approved to perform the CF30 (Customer) function at C&I. Throughout that time he was also a qualified PTS having held this qualification since 1 December 2001.

4.10 Between 21 December 2016 and 8 December 2019, Mr Pryke was approved to perform the CF10 (Compliance Oversight) function at C&I, and between 13 April 2007 and 8 December 2019, he was approved to perform the CF1 (Director) function at C&I.

4.11 Since 9 December 2019, Mr Pryke has been approved to perform the SMF3 (Executive Director) and SMF16 (Compliance Oversight) senior management functions at C&I.

Mr Pryke's responsibilities as CF30 (Customer) and a PTS

4.12 As an individual appointed by C&I to act as a PTS, Mr Pryke was responsible for giving advice on Pension Transfers, amongst other matters, and for checking such advice given by other individuals where he was responsible for it as "lead reviewer".

Mr Pryke's responsibilities as CF1 (Director) and CF10 (Compliance Oversight)

4.13 In his capacity both as a CF1 (Director) and as the CF10 (Compliance Oversight), Mr Pryke had responsibility for overseeing the Firm's provision of Pension Transfer advice, including taking reasonable steps to ensure that the Firm complied with the Authority's rules and regulatory requirements, in particular, as are relevant to the facts of this matter, Principles 6 and 9, COBS 2.1.1R, 9.2.1R, 9.2.2R, 9.2.6R, 19.1.1R and 19.1.2R and SYSC 3.1.1R, 6.1.1R and 9.1.1AR.

4.14 Between February 2014 and December 2016, the Firm failed to obtain approval for anyone to perform the CF10 (Compliance Oversight) function. Only when prompted by the Authority did the Firm apply for Mr Pryke to perform the CF10

(Compliance Oversight) function in December 2016. Nowhere were Mr Pryke's responsibilities as a CF1 (Director) or as the CF10 (Compliance Oversight) formally recorded by C&I and acknowledged by him. During the Visit Mr Pryke appeared to acknowledge that the Firm's compliance function was inadequate by telling the Authority that he would "get someone in within the next two to three weeks to sort out the compliance function".

#### Pension Transfers

- 4.15 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.
- 4.16 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.
- 4.17 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 act with integrity and 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.
- 4.18 Transfer out of a DBPS involves giving up the guaranteed benefits in exchange for a CETV 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.

- 4.19 The introduction of pensions freedoms (introduced in April 2015) for DC pensions made transferring out of a DBPS an attractive option for some people. For example, a customer who will not be reliant on the DBPS income in retirement and who wishes to achieve a realistic objective attainable only once transfer has been effected may be an example of a suitable candidate. However, as referenced in COBS 19.1.6G, 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 the customer's specific circumstances, that it is in their best interests.

### **C&I's Pension Transfer advice business**

#### Introductions via lead generators and increase in DB Pension Transfer advice

- 4.20 While some customers approached C&I directly, most of its Pension Transfer advice business was generated through introductions, the majority of which came from two lead generation companies. The fee arrangements between C&I and these companies varied, with some being paid a percentage of the Firm's remuneration for advising customers and others receiving a flat fee for each customer referred to the firm.
- 4.21 The Firm's DB Pension Transfer business increased significantly over the Relevant Period as the Firm purchased more leads. In the six months starting 2 April 2015, the Firm advised 30 customers to transfer out of their DBPS while in the 12 months from 1 October 2016 to 30 September 2017 this had increased to 347 customers. In the 12 months from 1 October 2017 to 30 September 2018, the Firm advised 341 customers to transfer out of their DBPS.

#### Increasing pressure on PTS resources

- 4.22 Throughout the Relevant Period, there were two PTSs. The Firm had no paraplanners and four administrative staff who mostly focused on pursuing leads. Mr Pryke and the other PTS had to work long hours in order to be able to cope with their workloads. Mr Pryke worked long days, six to seven days per week, and was often "on the road" meeting customers four days out of every week, and occasionally doing so at the weekends.

#### C&I's Pension Transfer advice process

- 4.23 Throughout the Relevant Period, C&I's Pension Transfer advice process was not documented. A flowchart was prepared by the Firm shortly before, and for the purpose of, the Visit.
- 4.24 The majority of customers came to the Firm through lead generators. The Firm received a lead with basic information on potential customers and a team of C&I employees called those potential customers to discuss a DB Pension Transfer. The initial triage service was carried out by unqualified administrative staff who would discuss the advantages and disadvantages of a Pension Transfer. There were no policies or procedures for staff to follow when providing the initial triage service.
- 4.25 The Firm did not keep records of cases where its recommendation to customers was not to transfer their DB Pension.
- 4.26 If the customers proceeded to the advice stage, customers would first have an initial consultation, either face-to-face or over the telephone, during which a financial planning questionnaire would be completed. DB Pension Transfer advice was provided on behalf of C&I by Mr Pryke or the Firm's other PTS. A PTS would meet the customer in person to discuss the financial planning questionnaire. The customer would then receive a Suitability Report setting out the Firm's Personal Recommendation signed off by one of the PTSs.
- 4.27 C&I's Suitability Reports were prepared by administrative staff with the Firm's PTSs signing them off. The reports were based on a template designed by the Firm but were not finalised until after the in-person meeting.
- 4.28 C&I offered its customers an ongoing service. However, this did not take the form of a structured annual review. Rather, it relied on customers proactively contacting the Firm after receiving a statement from their provider.

#### Initial and ongoing fees

- 4.29 C&I generally operated a semi-contingent charging model, whereby customers were charged £500 for advice which was waived if the customer went ahead with the transfer. C&I then charged its customers a percentage of the value of the transferred fund. The percentage amount of this fee varied according to the relevant total transfer value from 5%, where the transfer value of the pension was up to £250,000, to 1.5% in cases where the transfer value of the pension was over £1 million. For some customers, a lower fee was agreed. Annual reviews were provided free of charge. As a result of this charging structure, C&I's business model was built around acquiring new customers. With 76% of C&I's revenue being made up of DB Pension Transfer business for the 12 months from 1 October

2017 up to 30 September 2018, C&I and therefore Mr Pryke's income was reliant on new customers following recommendations to transfer out of their DBPS.

- 4.30 A customer with a transfer value equal to C&I's average during the Relevant Period (c.£200,000) would typically have paid a fee of £10,000. In the Sample the total advice fees charged was £195,607, with an average of £7,824. During the Relevant Period, customer payments for initial advice fees for Pension Transfer advice totalled at least £8.1 million.

### **C&I's compliance arrangements and board oversight**

#### *Compliance oversight*

- 4.31 Given the high volumes of Pension Transfer advice being provided by C&I, in particular from October 2016, it was important that the Firm took appropriate steps to verify the quality of advice being provided to customers. This included establishing and maintaining adequate policies and procedures sufficient to ensure C&I's compliance with its obligations under the regulatory system, including compliance with Pension Transfer rules.
- 4.32 As the CF10 (Compliance Oversight) for the majority of the Relevant Period, Mr Pryke had responsibility for oversight of C&I's compliance with the Authority's rules. Mr Pryke had been reminded of his responsibilities as a CF10 (Compliance Oversight) when the Firm applied for Mr Pryke to assume the CF10 (Compliance Oversight) function at the Firm. Mr Pryke was aware at that time that the CF10 (Compliance Oversight) function had not been allocated to anyone at the Firm for more than two years. Also, as a CF1 (Director) and as the Firm's most experienced PTS, he played a central role in the Pension Transfer advice process.
- 4.33 During the Visit, Mr Pryke was unable to explain in any detail what compliance monitoring he undertook. The only example that he could provide was that he had checked Suitability Reports prepared for him by an employee. He said that he spent eight hours every Sunday on compliance monitoring but was unable to explain what compliance work he undertook.
- 4.34 During the Visit the Authority was not provided with any written policies and procedures, such as might have related to triage procedures or preparing Suitability Reports. Beyond a flowchart of the Firm's advice process presented at the Visit, which had been created by the Firm shortly before, it appeared that no such documents were in place for staff to follow.
- 4.35 The Firm confirmed during the Visit that there was no formal file reviewing function. There were no records at the Firm evidencing any system of regular

compliance reviews of the completeness of customer files, whether the necessary information was being obtained before the Firm made any Personal Recommendations, whether the Personal Recommendations being given were suitable for the Firm's customers, and whether rules on information disclosure (such as COBS 19.1.2R) were being complied with.

- 4.36 The Feedback Letter observed that the Firm's compliance function was not adequately resourced and that Mr Pryke's focus on new customer acquisition left him with insufficient time to fulfil his duties both as a CF1 (Director) and as the CF10 (Compliance Oversight).

Absence of board governance

- 4.37 Mr Pryke confirmed during the Visit that throughout the Relevant Period the Firm had not held any board meetings. Consequently, no management information sufficient to enable proper oversight of its Pension Transfer business was ever prepared for, or reviewed by, any governance body at the Firm.
- 4.38 There was no evidence of governance over the risks associated with the Firm's Pension Transfer business. For example, there was no evidence that a risk register (or equivalent document) was ever created or maintained which might have prompted regular discussion of these matters, or prompted reviews of the policies and procedures (such as the fact finds or attitude to investment and transfer risk questionnaires) in place, which might potentially have identified deficiencies and resulted in steps being taken to address them.
- 4.39 In his roles as a CF1 (Director) and CF10 (Compliance Oversight) Mr Pryke was responsible for ensuring, at the very least, that board meetings and compliance reviews were conducted, appropriate management information prepared, the risks associated with the increase in the Firm's Pension Transfer business identified and discussed, and that the solutions identified to address and mitigate them monitored and recorded. But when he was asked during the Visit what risks he had identified in the Firm's Pension Transfer processes, his response was that as a successful company "you don't think about failure".
- 4.40 The Authority concluded in the Feedback Letter that Mr Pryke had failed to demonstrate that he had considered and understood the nature, scale and complexity of the risks arising from the Firm's business model and the risks this presented to customers.
- 4.41 After receiving the Authority's feedback, the Firm engaged an external compliance consultant. In its response to the Authority's feedback the Firm acknowledged the issues raised by the Authority, including the issues regarding the Firm's

compliance function and the need to present adequate management information at quarterly board meetings.

### **The Authority's Review of Mr Pryke's advice**

- 4.42 Following the Visit, the Authority requested and reviewed the Sample of 25 completed Pension Transfer files relating to 20 customers. As the Firm did not keep records of customers who decided not to complete a Pension Transfer, all of the customers within the Sample had been advised to do so and had followed that recommendation.
- 4.43 Mr Pryke was the PTS in all but two of the files in the Sample (i.e., 92%). He also held the CF10 (Compliance Oversight) role, with responsibility for ensuring that the Firm's advice complied with the relevant regulatory requirements, at the time that advice was given in respect of 16 of them and was the CF1 (Director) role for them all.
- 4.44 The Authority reviewed the files in the Sample against the applicable rules found in COBS relating to suitability. The Authority's review demonstrated that the Firm had:
- (1) made Personal Recommendations despite failing to collect the necessary information to do so in all of the files. In 24 of the files (96%), and in 22 out of 23 files (96%) where Mr Pryke was the PTS, the absence of information was so significant that the Authority was unable to assess whether the Firm's advice was suitable (see "Making Personal Recommendations without the necessary information" below);
  - (2) given unsuitable Pension Transfer advice in the only file where the Authority was able to assess whether or not the Firm's advice was suitable (see "Unsuitable Pension Transfer Advice" below); and
  - (3) failed to provide the required disclosure to the customer in 22 out of 25 files (88%) (see "Required Disclosure" below).

### **Making Personal Recommendations without the necessary information**

- 4.45 During the Relevant Period, COBS 9.2.1R stated that a firm must take reasonable steps to ensure that a Personal Recommendation (which included, in this context, a recommendation to transfer or not to transfer a pension) was suitable for its customer (COBS 9.2.1R).
- 4.46 When making the Personal Recommendation, 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.

- 4.47 COBS 9.2.2R stated that a firm must obtain from the customer 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.
- 4.48 COBS 9.2.6R stated that if a firm did not obtain the necessary information to assess suitability, it must not make a Personal Recommendation. Making a Personal Recommendation without the necessary information increases the risk of providing unsuitable advice.
- 4.49 In all 25 files in the Sample there was insufficient information, such that the Firm should not have made a Personal Recommendation to transfer out of the DBPS, as a proper assessment of suitability could not be made. This therefore put the customer at risk of receiving unsuitable advice. Mr Pryke was the adviser on 23 of those 25 files.

*Failure to gather information on the customer's financial situation*

- 4.50 A firm, before making a Personal Recommendation, must obtain information regarding the customer's financial situation. This requirement involves collecting information on the source and extent of the customer's regular income, their assets, including liquid assets, investments and real property, and their regular financial commitments.
- 4.51 Information about a customer's wider financial situation, including their additional resource and current expenditure details, is key to assessing the extent of their reliance on the income provided by their DBPS, and their capacity for loss (COBS 9.2.2R).
- 4.52 In all 25 files there was a failure to capture the necessary information regarding the customer's financial situation, in particular the customer's current expenditure and expected expenditure throughout retirement. Mr Pryke was the adviser on 23 of those files. Sufficient information on expenditure was only obtained in one of the 25 files.

4.53 In 17 files, all of them where Mr Pryke was the PTS, there was no information on current expenditure at all. This was despite the section on expenditure in most of the "Facts Finds" used for these files by Mr Pryke stating, in bold and in capital letters:

**"TO BE COMPLETED IN ALL CASES"**.

4.54 Where information on expenditure was recorded, it was incomplete, for example files in which the only expenditure noted down was rent, or debt-related liabilities. This meant that it was impossible to assess what Personal Recommendation might be suitable.

4.55 There was a pervasive failure to obtain sufficient information on customers' income needs and expenditure in retirement including the basic cost of living, lifestyle expenditure and discretionary expenditure; 24 of the 25 files, 22 of them where Mr Pryke was the PTS, did not include adequate retirement needs/expenditure details.

4.56 There was a common failure to clearly capture customer and spouse state pension and additional pension details. This is demonstrated by the file of Customer A where Mr Pryke had been the PTS. Customer A's wife was a member of a final salary scheme with 13 years of pensionable service, but no attempt had been made by Mr Pryke to capture the likely benefits under that scheme. Without this information, Mr Pryke was not in a position to determine the level of reliance on the DBPS, or evaluate whether these other potential resources could be used to achieve the customer's objectives notwithstanding a transfer out of their DBPS.

4.57 Another example is Customer B. Customer B was employed at the time of the advice and was a member of his workplace pension scheme. No details were captured about the value of the customer's pension or his entitlement to state pension. Without this information, Mr Pryke could not determine the level of reliance on the DBPS.

4.58 Mr Pryke, on behalf of the Firm, acknowledged that there were deficiencies in the information gathered prior to and during the Firm's advice process.

*Failure to gather information on the customer's attitude to risk*

4.59 C&I was obliged to obtain information giving it a reasonable basis for believing that its recommendation to transfer met the customer's investment objectives. As part of that, C&I was obliged to obtain information on its customers' preferences regarding risk taking and their risk profile. Part of this assessment involves determining a customer's attitude to investment risk, i.e., the extent to

which they are willing to accept the risk of suffering a loss when investing in order to potentially benefit from greater gains. In the specific Pension Transfer context, C&I also had to have a reasonable basis for believing that a 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.

- 4.60 In all but four (i.e. 84%) of the files in the Sample, the information collected about the customer's attitude to investment risk was limited to presenting the customer with five options under the heading "Attitude to Risk", from Risk Averse to Adventurous, where one option needed to be selected. Each category was explained with a single sentence, for example: "*Low – Although a cautious investor, you are prepared to accept low levels of risk for the prospect of slightly higher returns*". It is not clear how or whether Mr Pryke verified the answer supplied by C&I's customers as there is no documentary evidence to suggest that any verification took place nor were there any notes on file to explain the choices made by customers. Using a single question to determine attitude to risk ran a significant risk of Mr Pryke misinterpreting the customer's actual attitude resulting in a Personal Recommendation that was not aligned with their risk profile.
- 4.61 In relation to two of the customers whose files were assessed by the Authority, a risk questionnaire was completed. These questionnaires comprised 17 multiple-choice questions about past and future investment risk profiles, including asking customers to select a preferred hypothetical investment option with charts modelling performance over time. For these two customers, Mr Pryke would have been in a better position to understand their attitudes to investment risk. The earliest file in the Sample where a risk questionnaire was used dates from mid-2015, while the second file where the questionnaire is used dates from late-2017. Customer files dating from the period in between these two customers and after the second customer contained the single question on investment risk, which indicates that a consistent approach was not followed.
- 4.62 There was no reference to customers' attitudes to transfer risk or capacity for loss in the fact find or risk questionnaire. Even the more detailed questionnaire referred to in paragraph 4.63 focused only on investment risk. Mr Pryke failed to gather adequate information regarding, and failed to consider, the customer's attitude to transfer risk and capacity for loss in at least 14 of the 23 files where he was the PTS. Without this information it was impossible for Mr Pryke to determine whether a customer would be reliant on their DBPS to meet their income needs throughout retirement, the amount of loss specific customers could

afford, and whether they could bear the risks of losing the guaranteed income they would otherwise receive for their lifetime in order to achieve their objectives. A risk profile that looks only at investment risk is inherently flawed and reveals a systemic weakness in the assessment of customers' attitudes to risk.

#### Unsuitable Pension Transfer Advice

##### *Demonstrating suitability and that a transfer is in the customer's best interests*

- 4.63 COBS 9.2.1R(1)(a) states that a firm must 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 client.
- 4.64 COBS 19.1.6G(3) states 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. It follows that if a firm cannot clearly demonstrate this, then it should assume the transaction will not be suitable.
- 4.65 Potentially, a loss of guaranteed benefits equates to severe customer harm, as it involves surrendering a primary resource for ensuring financial stability in retirement or, alternatively, commencing retirement.

##### *Unsuitable advice in the Sample*

- 4.66 As described above, there were information gaps in relation to every file within the Sample. As a result, the Authority was only able to assess the suitability of the DB Pension Transfer advice given in relation to one file, that of Customer C. It concluded that the advice given to Customer C by Mr Pryke was unsuitable.
- 4.67 Customer C was 61 at the time of receiving advice from Mr Pryke, retired and in receipt of £290 per month in Employment and Support Allowance, as well as housing and council tax benefit (the amounts for these benefits were not recorded). She was a deferred member of a DBPS but the benefits available at the time of the advice and up to the Normal Retirement Date were not captured by Mr Pryke's fact find.
- 4.68 Mr Pryke failed to provide sufficient evidence to demonstrate that access to a tax-free lump sum or family benefits on death, which drove the transfer, were in the customer's best interests. Customer C's only significant asset was the deferred DBPS with a CETV of just over £92,000. She was advised to transfer her pension in order to benefit from a lump sum of £6,000 (which was likely available under the ceding scheme) and to maximise the death benefits payable to her partner, despite the file noting that as she was not married to her partner it would be at

the trustee's discretion whether he would receive spouse's benefits. No information was collected on whether Customer C's partner had any need to receive any payment on her death. The advice cost Customer C approximately £4,500.

- 4.69 The Authority considers that the primary purpose of a pension is to meet the income needs of an individual in retirement. Where a customer expresses a strong wish to maximise their death benefits, or to increase the flexibility of alternative arrangements, there is an increased risk that this will undermine the primary purpose of their pension. A balance between these objectives therefore needs to be achieved, which is in the best interests of the customer given their circumstances.
- 4.70 In light of the above the Authority is satisfied that the recommendation made by Mr Pryke for Customer C to transfer out of their DBPS was unsuitable. Customer C's objectives were taken at face value and Mr Pryke failed to analyse whether they were in her best interests or if they could be achieved without a Pension Transfer.

#### Required Disclosure

- 4.71 Rules in COBS about the provision of information to customers require that consumers have all the necessary information to make an informed decision and are, ultimately, treated fairly; C&I failed to comply with these rules in 22 of the files in the Sample. Mr Pryke was the PTS on all of those files.

#### *Provision of inadequate transfer value analysis to customers*

- 4.72 In order to provide Pension Transfer advice Mr Pryke was required to carry out a comparison between the benefits likely to be paid by the ceding scheme with the benefits afforded by a personal pension, referred to as a TVAS. The TVAS document facilitated this comparison as required by COBS 19.1.2R(1).
- 4.73 The main output from this document was a series of percentages, known as "critical yields". These illustrated the annual growth rate (net of charges) that the customer would need to obtain on an investment of the CETV in order to replicate the benefits provided by the scheme.
- 4.74 The adviser was required to ensure that the comparison included enough information for the customer to be able to make an informed decision, drawing the customer's attention to factors that both supported and detracted from the adviser's advice. The adviser was also required to take reasonable steps to ensure that the customer understood the firm's comparison and its advice. This was

particularly important in the instant case, given the limited knowledge and experience of many of the customers in the Sample.

- 4.75 Of the 22 files in the Sample where a TVAS was required none contained a complete copy of it. In those 22 files, the Suitability Reports sent to customers included only extracts from the TVAS, rather than the complete TVAS. There was no evidence in the Sample that complete TVASs were provided to customers at any point.
- 4.76 The extracts that were shared included a critical yield in scenarios where the customer took a PCLS and invested the remainder of their CETV in a personal pension and where the entirety of the CETV was invested in a personal pension. However, the Suitability Reports made no attempt to explain to customers how Mr Pryke had considered these critical yields when making the Personal Recommendation. Customers could therefore not reasonably have been expected to understand how the TVAS contributed towards the recommendation that was made.
- 4.77 In all 20 files in the Sample where Mr Pryke was the PTS, and which required a TVAS, Mr Pryke signed off Suitability Reports which failed to provide those customers with sufficient information from the TVAS to enable them to be able to make an informed decision about whether to complete a Pension Transfer.

Mr Pryke's opportunity to comment on the Authority's review of the Sample and his failure to respond to information requirements.

- 4.78 The Authority summarised its findings from its review of the Sample in a Feedback Letter dated 14 January 2021, which included detailed feedback on three of the customers within the Sample. The Feedback Letter was sent in the form of a statutory information requirement which obliged Mr Pryke to provide his comments on the feedback. Mr Pryke failed to respond to the Feedback Letter. Letters reminding Mr Pryke of the statutory obligation to respond to the information requirement were sent on 22 February 2021 and 8 April 2021; despite these reminders, Mr Pryke never responded to the Feedback Letter.

Mr Pryke's and C&I's financial affairs and the Settlement

- 4.79 Following an official investigation by another organisation into his business affairs between 2009 and 2017, Mr Pryke entered into a formal settlement in March 2019 whereby he admitted that he had deliberately and dishonestly sought to rely on information that he knew to be false in order to avoid making payments in excess of £432,000 (the Settlement).

4.80 Mr Pryke failed to notify the Authority of the Settlement or the investigation which preceded it, in breach of Statement of Principle 4 which required him to disclose appropriately any information of which the Authority would reasonably expect notice. This was despite meeting officers of the Authority in person during the Visit, just three months after he had signed the Settlement.

## **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 facts and matters described in section 4 of this Notice, during the Relevant Period, Mr Pryke failed to comply with Statement of Principle 1, in that he was reckless and thereby failed to act with integrity in the performance of his role as a CF30 (Customer) and PTS and as CF1 (Director) and CF10 (Compliance Oversight). In the alternative, the Authority considers that Mr Pryke's actions during the Relevant Period amount to a failure to act with due skill, care and diligence in the performance of his role as a CF30 (Customer) and PTS and as CF1 (Director) and CF10 (Compliance Oversight), in breach of Statement of Principle 2.

### Failings as a CF30 (Customer) and PTS

5.3 Mr Pryke's actions as a CF30 (Customer) and PTS, in relation to giving Personal Recommendations, were reckless because he:

- (1) made Personal Recommendations despite having failed to obtain from customers adequate information relating to their financial situation, including their additional resource and current expenditure details, that was necessary for him properly to assess whether it would be suitable for them to transfer out of their DB Pension Schemes;
- (2) made Personal Recommendations despite having failed to adequately assess customers' attitudes to investment and transfer risk, which was necessary for him properly to assess whether it would be suitable for them to transfer out of their DB Pension Schemes; and
- (3) approved Suitability Reports which failed to provide his customers with sufficient information from the TVAS to enable them to be able to make an informed decision about whether to complete a Pension Transfer;

despite knowing that each of these steps was a necessary prerequisite to providing a Personal Recommendation.

5.4 Furthermore, Mr Pryke provided unsuitable Pension Transfer advice in the one file in the Sample where there was sufficient information for the Authority to make such an assessment.

Failings as CF1 (Director) and CF10 (Compliance Oversight)

5.5 Mr Pryke's actions in relation to his oversight of the Firm's Pension Transfer business were reckless because he failed to take any proper steps to ensure that:

- (1) the Firm adequately assessed the suitability of the Pension Transfer for the customer, including adequately assessing customers' objectives and attitude to risk; Mr Pryke did not, for example, throughout the Relevant Period, implement clear policies and procedures on giving DB Pension Transfer advice, or collate or adequately review management information concerning the nature of the Firm's advice, despite significant increases in its volume and the high percentage of its customers being advised to transfer;
- (2) the customer fact find processes used by the Firm when giving DB Pension Transfer advice were adequate and appropriate, meaning that insufficient customer information was gathered to assess suitability; Mr Pryke did not, for example, adequately review whether the Firm's fact find questionnaires were being completed and that necessary customer information was being obtained and recorded;
- (3) an adequate and appropriate compliance monitoring system was in place at the Firm to ensure compliance with the Authority's requirements and standards for DB Pension Transfer advice; Mr Pryke did not, for example, implement any formal file review processes, and where he personally conducted reviews did not record his findings;
- (4) the Firm maintained adequate customer files and business records; Mr Pryke did not, for example, maintain records of recommendations not to transfer, firm processes, board meetings or customer complaints; and
- (5) the Firm allocated adequate resources to C&I's compliance function and to the CF10 (Compliance Oversight) role; Mr Pryke did not, for example, despite the significant increase in the volume of the Firm's DB Pension Transfer business during the Relevant Period, make any adequate provision to increase the capacity of the Firm's compliance function generally, or specifically to support his ability to properly discharge the CF10 (Compliance Oversight) role.



5.6 Mr Pryke thereby unreasonably exposed C&I's customers to a significant and obvious risk that C&I's DB Pension Transfer advice to those customers might not meet the Authority's requirements; particularly in that the advice may have been given in breach of COBS 9.2.1R, COBS 9.2.2R, COBS 9.2.6R and COBS 19.1.2R(1), all rules which applied to the Firm. As an experienced industry professional, Mr Pryke must have been aware of these risks.

Mr Pryke's failure to deal with the Authority in an open and cooperative way

5.7 Statement of Principle 4 states that an approved person must deal with the Authority, the PRA and other regulators in an open and cooperative way and must disclose appropriately any information of which the Authority or the PRA would reasonably expect notice.

5.8 In breach of Statement of Principle 4, Mr Pryke did not notify the Authority of the Settlement, nor the investigation which preceded it, despite meeting officers of the Authority in person during the Visit, just three months after he had signed the Settlement.

Fitness and propriety

5.9 The Authority considers that Mr Pryke lacks fitness and propriety for the following reasons:

- (1) his failings as a CF30 (Customer) and a PTS were serious and demonstrated his reckless disregard towards properly discharging a role which is an important regulatory protection for consumers;
- (2) his failings as a CF1 (Director) and as CF10 (Compliance Oversight) were serious and demonstrated a reckless disregard for ensuring that C&I complied with regulatory standards and expectations;
- (3) Mr Pryke recently entered into the Settlement whereby he admitted that he had deliberately and dishonestly sought to rely on information that he knew to be false in order to avoid making payments in excess of £432,000;
- (4) Mr Pryke failed to notify the Authority of the Settlement, or the investigation which preceded it, in breach of Statement of Principle 4; and
- (5) despite being notified that he was the subject of an enforcement investigation by the Authority, Mr Pryke failed without good reason to comply with the information requirement issued on 14 January 2021] under Part XI of the Act.

- 5.10 The Authority considers that, for the reasons set out at paragraph 5.9 above, and as a result of the facts and matters set out in section 4 of this Notice, Mr Pryke has demonstrated a lack of honesty (in respect of his business affairs) and a lack of integrity in the performance of his CF1 (Director), CF10 (Compliance Oversight) and CF30 (Customer) functions.
- 5.11 The Authority therefore considers that Mr Pryke is not fit and proper to perform any function in relation to any regulated activity carried on by an authorised person, exempt person or exempt professional firm.

## 6. SANCTION

### Financial penalty

- 6.1 Sections 66(1) and (3) of the Act give the Authority the power to impose a penalty on an individual, if that person is guilty of misconduct and it is satisfied that it is appropriate in all the circumstances to take action against him.
- 6.2 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 6.5B sets out the details of the five-step framework that applies in respect of financial penalties imposed on individuals in non-market abuse cases.
- Step 1: disgorgement
- 6.3 Pursuant to DEPP 6.5B.1G, at Step 1 the Authority seeks to deprive an individual of the financial benefit derived directly from the breach where it is practicable to quantify this.
- 6.4 Mr Pryke received £209,700 in salary payments from C&I during the Relevant Period. The Authority considers that it is appropriate to disgorge 100% of this amount. Mr Pryke received £4,000 in dividends during the Relevant Period. The Authority considers that it is appropriate to disgorge 76% of this amount, namely £3,040, being the percentage of the Firm's business that related to DB Pension Transfer advice. During the Relevant Period, Mr Pryke also withdrew cash and made, or permitted, regular payments from the Firm's bank accounts for his personal benefit or for that of close relatives. The Authority considers that it is appropriate to disgorge a further £581,454 in respect of those payments.
- 6.5 In accordance with DEPP 6.5B.1G, the Authority has charged interest on Mr Pryke's benefit of £794,193 at 8% per annum from the date of receipt to 17 January 2024, amounting to £290,174.
- 6.6 Step 1 is therefore **£1,084,368** (inclusive of interest up to 17 January 2024).

## Step 2: the seriousness of the breach

- 6.7 Pursuant to DEPP 6.5B.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 individual's relevant income. The individual's relevant income is the gross amount of all benefits received by the individual from the employment in connection with which the breach occurred, and for the period of the breach.
- 6.8 The period of Mr Pryke's breach was from 2 April 2015 to 25 June 2019. The Authority considers Mr Pryke's relevant income for this period to be £978,771.
- 6.9 In deciding on the percentage of the relevant income that forms the basis of the Step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 40%. 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 individuals in non-market abuse cases there are the following five levels:

Level 1 – 0%

Level 2 – 10%

Level 3 – 20%

Level 4 – 30%

Level 5 – 40%

- 6.10 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*

- 6.11 DEPP 6.5B.2G(8) lists factors relating to the impact of a breach committed by an individual. The Authority considers the following to be relevant:
- (1) Mr Pryke gained a substantial benefit from his breaches of Statement of Principle 1, by virtue of being a director and shareholder of C&I. As all of the files in the Sample failed to comply with the Authority's regulations, and Pension Transfer advice comprised at least 60% of the Firm's new business and at least 76% of its revenue, a significant proportion of the benefit received by Mr Pryke is attributable to his breaches. Substantial dividends and other payments were also made by the Firm to some of his close relatives. (DEPP 6.5B.2 G(8)(a)); and

- (2) Mr Pryke's breaches of Statement of Principle 1 caused a significant risk of loss, as a whole, to customers who transferred out of their DBPS as a result of his advice. Completed Pension Transfers had a total transfer value of £204,432,197. Mr Pryke's breaches have placed a large proportion of those funds at risk. (DEPP 6.5B.2G(8)(b)).

#### *Nature of the Breach*

6.12 DEPP 6.5B.2G(9) lists factors relating to the nature of a breach by an individual. Of those, the Authority considers the following to be relevant:

- (1) Mr Pryke provided non-compliant Pension Transfer advice frequently throughout a period of over four years. (DEPP 6.5B.2G(9)(b));
- (2) Mr Pryke's conduct demonstrated a recklessness towards ensuring C&I's compliance with the Authority's rules and regulations and thereby demonstrated a lack of integrity. (DEPP 6.5B.2G(9)(e));
- (3) Mr Pryke was an experienced industry professional having worked in the financial services industry for over 30 years at the time of the breaches. (DEPP 6.5B.2G(9)(j));
- (4) Mr Pryke held senior positions at the Firm as CF1 (Director) and CF10 (Compliance Oversight). (DEPP 6.5B.2G(9)(k)); and
- (5) As CF10 (Compliance Oversight) at C&I during most of, and as CF1 (Director) throughout, the Relevant Period, Mr Pryke had overall responsibility for ensuring the Firm's compliance with the Authority's rules and regulatory requirements, particularly those governing DB Pension Transfer advice. As a qualified PTS employed by the Firm he also had a direct personal responsibility for the advice that he gave to customers in performing that role. (DEPP 6.5B.2G(9)(l)).

#### *Whether the breach was deliberate and/or reckless*

6.13 DEPP 6.5B.2G(10) and (11) list factors tending to show whether the breach was deliberate or reckless. The Authority considers that, of these, DEPP 6.5B.2G(11)(a) applies to his conduct, which is a factor tending to show the breach was reckless, as Mr Pryke appreciated there was a risk that his actions or inaction could result in a breach and he failed adequately to mitigate that risk.

#### *Level of Seriousness*

6.14 DEPP 6.5B.2G(12) lists factors likely to be considered 'level 4 or 5 factors'. The Authority considers that, of these, DEPP 6.5B.2G(12)(a) applies, which is that Mr

Pryke's breach caused a significant loss or risk of loss to individual consumers, as demonstrated by the sum of over £42.5 million awarded by the FSCS to the Firm's customers as a result of the provision of unsuitable Pension Transfer advice; DEPP 6.5B.2G(12)(d) applies, which is that Mr Pryke failed to act with integrity; and DEPP 6.5B.2G(12)(g) applies as his conduct was reckless.

6.15 DEPP 6.5B.2G(13) lists factors likely to be considered 'level 1, 2 or 3 factors'. The Authority considers that none of these factors are relevant to Mr Pryke's breach.

6.16 Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 4 and so the Step 3 figure is 30% of £978,771.

6.17 The Step 2 figure is therefore **£293,631**.

#### Step 3: mitigating and aggravating factors

6.18 Pursuant to DEPP 6.5B.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.

6.19 The Authority has considered whether any of the mitigating or aggravating factors listed in DEPP 6.5B.3G, or any other such factors, apply in this case.

6.20 Of these, the Authority considers that the only relevant factor is DEPP 6.5B.3G(i) which lists the previous disciplinary record and general compliance history of the individual. However, the Authority does not consider that the absence of any previous breaches on Mr Pryke's record sufficiently mitigates his conduct so as to justify any reduction to the figure at Step 3.

6.21 The Step 3 figure is therefore **£293,631**.

#### Step 4: adjustment for deterrence

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

6.23 The Authority considers that the Step 3 figure of **£293,631** represents a sufficient deterrent to Mr Pryke and others, and so has not increased the penalty at Step 4.

#### Step 5: settlement discount

6.24 The Authority and Mr Pryke did not reach agreement to settle so no discount applies to the Step 4 figure.

#### Penalty

6.25 The financial penalty is therefore £293,600 (rounded down to the nearest £100 in accordance with the Authority's usual practice) plus disgorgement (with interest) of £1,084,368.

6.26 The Authority has therefore decided to impose a total financial penalty of **£1,377,968** on Mr Pryke for breaching Statements of Principle 1 and 4.

### **Prohibition Order**

6.27 The Authority has had regard to the guidance in Chapter 9 of EG in considering whether to impose a prohibition order on Mr Pryke. The Authority has the power to prohibit individuals under section 56 of the Act.

6.28 In light of the serious and sustained breaches set out in this Notice, in particular Mr Pryke's failings as CF1 (Director) and CF10 (Compliance Oversight) at the Firm, the Authority considers it is appropriate and proportionate in all the circumstances to prohibit Mr Pryke from performing any function in relation to any regulated activity carried on by an authorised person, exempt person, or exempt professional firm. For the reasons set out in paragraphs 5.9 to 5.11 above, including the fact that Mr Pryke acted recklessly and with a lack of integrity in discharging his roles as a CF1 (Director), CF10 (Compliance Oversight) and CF30 (Customer), and demonstrated a lack of honesty in his business affairs, the Authority considers that Mr Pryke lacks fitness and propriety. Mr Pryke's breaches of Statement of Principle 1 were serious and resulted in a large number of the Firm's customers suffering, or being exposed to the risk of suffering, serious financial detriment, and Mr Pryke benefitted from these breaches by making significant personal financial gains at their expense. As a result, the Authority considers that prohibition is necessary in order to secure an appropriate degree of protection for consumers.

## **7. PROCEDURAL MATTERS**

7.1 This Notice is given to Mr Pryke under 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 RDC. The RDC is a committee of the Authority which takes certain decisions on behalf of the Authority. The members of the RDC are separate to the Authority staff involved in conducting investigations and recommending action against firms and individuals. Further information about the RDC can be found on the Authority's website:

<https://www.fca.org.uk/about/committees/regulatory-decisions-committee-rdc>

**Manner and time for payment**

- 7.4 The financial penalty must be paid in full by Mr Pryke to the Authority no later than 10 January 2025.

**If the financial penalty is not paid**

- 7.5 If all or any of the financial penalty is outstanding on 10 January 2025, the Authority may recover the outstanding amount as a debt owed by Mr Pryke and due to the Authority.

**Authority contacts**

- 7.6 For more information concerning this matter generally, contact Lisa Ablett at the Authority (direct line: 020 7066 9886 / email: Lisa.Ablett@fca.org.uk).

**Nicholas Hills**

**Head of Department**

**Financial Conduct Authority, Enforcement and Market Oversight Division**

## **ANNEX A**

### **RELEVANT STATUTORY AND REGULATORY PROVISIONS**

#### **The Financial Services and Markets Act 2000 ("the Act")**

##### The Authority's operational objectives

1. The Authority's operational objectives are set out in section 1B(3) of the Act and include securing an appropriate degree of protection for consumers and protecting and enhancing the integrity of the UK financial system.

##### Section 56 of the Act

2. Section 56 of the Act provides that the Authority may make an order prohibiting an individual from performing a specified function, any function falling within a specified description or any function, if it appears to the Authority that that individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person, a person who is an exempt person in relation to that activity or a person to whom, as a result of Part 20, the general prohibition does not apply in relation to that activity. Such an order may relate to a specified regulated activity, any regulated activity falling within a specified description, or all regulated activities

##### Section 66A of the Act

3. Under section 66A of the Act, the Authority may take action against a person if it appears to the Authority that he is guilty of misconduct and the Authority is satisfied that it is appropriate in all the circumstances to take action against him, including the imposition of a penalty of such amount as it considers appropriate.
4. Under section 66A of the Act a person is guilty of misconduct if, inter alia, he at any time failed to comply with rules made by the Authority under section 64A of the Act and at that time was an approved person, or had been knowingly concerned in a contravention of relevant requirement by an authorised person and at that time the person was an approved person in relation to the authorised person.

### **RELEVANT REGULATORY PROVISIONS**

#### **The Authority's Handbook of Rules and Guidance**

5. In exercising its powers to impose a financial penalty, the Authority must have regard to the relevant regulatory provisions in the Authority's Handbook of rules and guidance (the "Handbook"). The main provisions that the Authority considers relevant are set out below.

#### **Principles for Businesses ("PRIN")**



6. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Handbook. They derive their authority from the Authority's rulemaking powers as set out in the Act and reflect the Authority's regulatory objectives. They can be accessed here:

<https://www.handbook.fca.org.uk/handbook/PRIN/2/1.html>

7. Principle 6 of the Authority's Principles for Businesses states that:

*"a firm must pay due regard to the interests of its customers and treat them fairly".*

8. Principle 9 of the Authority's Principles for Businesses states 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."*

#### **Statements of Principle and Code of Practice for Approved Persons ("APER")**

9. The part of the Authority's handbook known as APER sets out the Statements of Principle issued under section 64 of the Act as they relate to approved persons and descriptions of conduct which, in the opinion of the Authority, do not comply with a Statement of Principle.
10. APER further describes factors which, in the opinion of the Authority, are to be taken into account in determining whether or not an approved person's conduct complies with particular Statements of Principle.
11. APER 3.2.1 G states that in determining whether or not the particular conduct of an approved person within his controlled function complies with the Statements of Principle, the following are factors which, in the opinion of the Authority, are to be taken into account:

(1) whether that conduct relates to activities that are subject to other provisions of the Handbook;

(2) whether that conduct is consistent with the requirements and standards of the regulatory system relevant to his [APER employer] (in place from 7 December 2020, previously "the firm").

12. Statement of Principle 1 states that:

*"An approved person must act with integrity in carrying out his accountable functions."*

13. "Accountable functions" include controlled functions and any other functions performed by an approved person in relation to the carrying on of a regulated activity by the authorised person to which the approval relates.

14. Statement of Principle 2 states that:

“An approved person must act with due skill, care and diligence in carrying out his accountable functions.”

15. Statement of Principle 4 states that:

“An approved person must deal with the FCA, the PRA and other regulators in an open and cooperative way and must disclose appropriately any information of which the FCA or the PRA would reasonably expect notice.”

### **Senior Management Arrangements, Systems and Controls (“SYSC”)**

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

17. SYSC 6.1.1R states that a firm must establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the firm including its managers, employees and appointed representatives (or where applicable, tied agents) with its obligations under the regulatory system and for countering the risk that the firm might be used to further financial crime.

18. SYSC 9.1.1AR (applicable from 3/1/2018 but materially identical to previous provisions) states that a firm must arrange for records to be kept of all services, activities and transactions undertaken by it, and that those records must be sufficient to enable the Authority to fulfil its supervisory tasks and to perform the enforcement actions under the regulatory system.

### **Conduct of Business Sourcebook (“COBS”)**

#### *The client’s best interest rule*

19. COBS 2.1.1 R:

(1) A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule).

#### *Communication is fair clear and not misleading*

20. COBS 4.2.1 R:

(1) A firm must ensure that a communication or a financial promotion is fair, clear and not misleading.

#### *Assessing suitability: the obligations*

21. COBS 9.2.1 R:

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

(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.

22. COBS 9.2.2 R:

(1) 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) 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.

(3) 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.

23. COBS 9.2.3 R:

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.

24. COBS 9.2.4 R:

A firm must not encourage a client not to provide information for the purposes of its assessment of suitability.

25. COBS 9.2.5 R:

A firm is entitled to rely on the information provided by its clients unless it is aware that the information is manifestly out of date, inaccurate or incomplete.

*Insufficient information*

26. COBS 9.2.6 R:

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.

*Suitability reports*

27. During the Relevant Period COBS 9.4 set out the following rules and guidance concerning Suitability reports.

28. COBS 9.4.1 R:

A firm must provide a suitability report to a retail client if the firm makes a personal recommendation to the client and the client:

[...]

(2) buys, sells, surrenders, converts or cancels rights under, or suspends contributions to, a personal pension scheme or a stakeholder pension scheme; or

(3) elects to make income withdrawals or purchase a short-term annuity; or

(4) enters into a pension transfer or pension opt-out

29. COBS 9.4.7R:

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.

30. COBS 9.4.8 G:

A firm should give the client such details as are appropriate according to the complexity of the transaction.

*Pension transfers, conversions, and opt-outs*

31. COBS 19.1 applies, with some exclusions, to a firm that gives advice or a personal recommendation about a pension transfer, a pension conversion or a pension opt-out. The following provisions of COBS 19.1 are set out as they applied during the Relevant Period.

32. COBS 19.1.2R:

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.

33. COBS 19.1.3G:

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.

34. COBS 19.1.6G:

When advising a retail client who is, or is eligible to be, a member of a defined benefits occupational 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 then 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

35. COBS 19.1.7G:

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.

36. COBS 19.1.7AG:

When giving a personal recommendation about a pension transfer or pension conversion, a firm should clearly inform the retail client about the loss of the safeguarded benefits and the consequent transfer of risk from the defined benefits pension scheme or other scheme with safeguarded benefits to the retail client, including:

(1) the extent to which benefits may fall short of replicating those in the defined benefits pension scheme or other scheme with safeguarded benefits;

(2) the uncertainty of the level of benefit that can be obtained from the purchase of a future annuity and the prior investment risk to which the retail client is exposed until an annuity is purchased with the proceeds of the proposed personal pension scheme or stakeholder pension scheme; and

(3) the potential lack of availability of annuity types (for instance, annuity increases linked to different indices) to replicate the benefits being given up in the defined benefits pension scheme.

37. COBS 19.1.8G:

When a firm prepares a suitability report it should include:

(1) a summary of the advantages and disadvantages of its personal recommendation;

(2) an analysis of the financial implications (if the recommendation is to opt-out); and

(3) a summary of any other material information.

**Fit and Proper test for Employees and Senior Personnel ("FIT")**

38. Guidance on the question whether an individual is a fit and proper person is given in the part of the Handbook called the Fit and Proper Test for Employees and Senior Personnel (FIT). FIT 1.3.1G states that the Authority will have regard to a number of factors when assessing the fitness and propriety of a person to perform a particular controlled function. The most important considerations will be the person's:

(1) honesty, integrity and reputation;

(2) competence and capability; and

(3) financial soundness.

39. For the purposes of this notice the relevant considerations are (1) honesty, integrity and reputation.

**Enforcement Guide ("EG")**

40. The Authority's policy for exercising its power to make a prohibition order is set out in Chapter 9 of EG.

41. EG 9.2.2 states that the Authority has the power to make a range of prohibition orders depending on the circumstances of each case and the range of regulated activities to which the individual's lack of fitness and propriety is relevant. Depending on the circumstances of each case, the Authority may seek to prohibit an individual from performing any class of function in relation to any class of regulated activity, or it may

limit the prohibition order to specific functions in relation to specific regulated activities. The Authority may also make an order prohibiting an individual from being employed by a particular firm, type of firm or any firm.

42. EG 9.2.3 states that the scope of the prohibition order will depend on the range of functions which the individual concerned performs in relation to regulated activities, the reasons why he is not fit and proper and the severity of risk which he poses to consumers or the market generally.
43. At EG 9.3.5(3) the Authority gives severe acts of dishonesty, e.g. which may have resulted in financial crime, as an example of the type of behaviour which has previously resulted in the Authority deciding to issue a prohibition order
44. EG sets out the Authority's approach to taking disciplinary action. The Authority's approach to financial penalties is set out in Chapter 7 of EG, which can be accessed here:

<https://www.handbook.fca.org.uk/handbook/EG/7/?view=chapter>

#### **Decision Procedures and Penalties Manual ("DEPP")**

45. Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's policy for imposing a financial penalty. The Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5B sets out the details of the five-step framework that applies to financial penalties imposed on individuals in non-market abuse cases, which can be accessed here:

<https://www.handbook.fca.org.uk/handbook/DEPP/6/5B.html>