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Dear CEO/Director

Portfolio strategy letter for financial advisers

As set out in our [Approach to Supervision](#), we assign firms to a portfolio based on their primary business model. We regularly analyse each portfolio and agree a strategy to take pre-emptive action on the firms and issues posing the greatest harm.

Your firm is part of the portfolio of firms categorised as financial advisers. I am writing to all firms in the portfolio to set out our approach to tackling key areas of concern with financial advice firms and summarise the action we expect you to undertake.

Why financial advisers are a key FCA priority

Consumers are being asked to take more responsibility for an increasing number of complex financial decisions. Financial advisers have a valuable role to play in helping consumers navigate these choices and deliver the right solutions for their needs and objectives. However, we are seeing an increasing number of cases where the actions of firms are resulting in significant harm to consumers' financial well-being. Preventing harm in this portfolio is therefore a key priority.

We have identified four key ways in which consumers of financial advice may be harmed:

- receiving unsuitable advice for their needs and objectives
- falling victim to pension and investment scams
- not receiving redress as a result of the non-payment of FOS awards and/or failing firms being unable to compensate consumers
- paying excessive fees or charges for products and services

There will be increased focus on these areas as part of our wider supervision of firms over the next two years.

Assessing suitability of advice and disclosure

Following on from our Assessing Suitability Review in 2017, we will be carrying out further work on the suitability of advice and associated disclosure (known as 'Assessing Suitability Review 2'). The review will focus on initial and ongoing advice to consumers on taking an income in retirement. This evolving market has changed significantly following the pension freedom reforms and we want to assess the outcomes consumers are receiving.

Action to take

You need to ensure the advice you provide is suitable, costs and charges are disclosed clearly, and you act in the best interests of your clients. Conflicts of interest must be identified and where they cannot be prevented, disclosed and managed.

Defined benefit pension transfer advice

We have repeatedly made clear our expectations of financial advisers, as well as strengthening the rules around defined benefit (DB) pension transfer advice. Despite this, too much advice is still not of an acceptable standard. We also remain concerned firms are recommending large numbers of consumers transfer out of their DB pension schemes despite our stance that transfers are likely to be unsuitable for most clients. As a result, we will continue to focus on this area until the quality of pension transfer advice reaches the same standard as the wider advice market.

We are undertaking a wide-ranging programme of data-led supervision work assessing firms' DB advice processes and client outcomes. In July 2019 we issued a [consultation paper](#) on various proposals regarding DB pension transfer advice, including proposed changes to the charging models firms use. We plan to publish finalised Handbook rules and guidance in Q1 2020. If you give DB pension transfer advice you should consider how our proposals might affect your future business.

Action to take

We expect you to start from the assumption that a pension transfer is not likely to be suitable for your client. You need to ensure you have identified and are managing the risks associated with DB transfer business. This includes any conflict of interest caused by your charging structures, both for advice on the decision to transfer and any ongoing investment advice.

Inadequate fact finding creates a high risk that your advice will be unsuitable. You must ensure you gather all the necessary information to carry out appropriate pension transfer analysis and make a suitable recommendation. You also need to ensure you have adequate advisory, transfer specialist and compliance resources for your business.

Pensions and investment scams

Significant numbers of consumers are still being targeted by scammers. Scammers are also becoming increasingly sophisticated in developing investments designed to defeat firms' due diligence. Key areas of risk include:

- authorised firms receiving introductions from introducers or lead generators, particularly, where the introducer has inappropriate influence on how the authorised firm carries out its business (such as where the introducer influences the final investment choice)
- authorised firms delegating regulated activities, particularly where they outsource their advice process to unauthorised entities or other authorised firms that do not have the relevant permissions, or are not their appointed representatives
- principal firms having inadequate oversight of their appointed representatives
- authorised firms failing to undertake adequate due diligence on products and services they recommend (for example, non-standard, illiquid investments)
- investments containing non-standard assets, complex structures and/or high charges

We will continue to focus our intelligence and supervisory activities on taking prompt and assertive action on the firms and individuals who facilitate or participate in scams.

Action to take

Firms and individual advisers play an important role in helping prevent scams. You need to be aware of the current risks and ensure your advice processes and systems are robust enough to avoid them.

If you think a firm or an individual is involved in wrongdoing, you should report it to our firm queries team on +44 (0)300 500 0597 or firm.queries@fca.org.uk. The information you provide will be treated in confidence.

If you would like to report anonymously, you can speak to our whistleblowing team:

- call: +44 (0)20 7066 9200 during office hours or leave a message
- email: whistle@fca.org.uk
- write to: Intelligence Department (Ref PIDA), Financial Conduct Authority, 12 Endeavour Square, London E20 1JN

Adequate financial resources and professional indemnity insurance

We are concerned some financial advisers are holding inadequate financial resources and/or professional indemnity insurance (PII) for the business activities they carry out. This has been an issue with a number of the firms assessed as part of our work on DB pension transfer advice. Where this is the case, it increases the risk of firms being unable to put things right where they have caused harm to their clients. The inability to compensate consumers, and the transfer of these costs to other market participants via the FSCS levy, is unfair and places an unnecessary burden on other firms. It also threatens confidence and participation in financial services markets.

We have seen cases where firms have exclusions for particular business lines (such as providing advice on DB transfers), or have sub-limits on particular business lines below the minimum requirements (eg less than the €1.85m for 'IDD' firms). Some firms have excesses on claims which are at such a level as to render the cover materially ineffective. In those circumstances, we take the view the exclusion/excess or sub-limits unreasonably limit cover and do not comply with our rules.

We will be focusing on whether financial advisers have adequate financial resources and PII as part of our ongoing supervisory work. This will include the steps firms' senior management have taken to maintain valid PII.

Action to take

Financial adviser firms (that are Personal Investment Firms) must meet the financial resources requirements set out in Chapter 13 of our [Interim Prudential sourcebook: Investment Business](#) (and other relevant parts of our Handbook). This includes a requirement to maintain compliant PII.

You need to maintain valid PII for past and current business so that there is no break in cover. Your PII policy must not be subject to conditions or exclusions which unreasonably limit its cover. In such circumstances, you should stop providing advice on those business lines until you can secure appropriate cover or risk being in breach of our rules.

If your firm has permissible exclusions you will need to hold additional capital in line with our rules. If your firm does not have PII cover at all for certain types of business, you should not be advising on that business. Where relevant, you should also apply for the relevant permission to be removed (for example, advising on pension transfers and pension opt-outs).

Ban on promotion of speculative mini-bonds to retail consumers

We recently used our product intervention powers to ban the mass marketing of speculative mini-bonds to retail customers. The restriction came into force 1 January 2020 and will last for 12 months while we consult on whether to make permanent rules. We also published [guidance](#) on our existing rules for firms approving the financial promotions of unauthorised persons.

Action to take

You should consider whether the steps you have taken in approving financial promotions in the past were sufficient to ensure they satisfied our requirements. If you become aware a financial promotion you have approved previously does not comply with our rules, you should withdraw your approval. If you approve the financial promotions of unauthorised persons, have done so in the past 12 months, or intend to begin doing so, we request that you inform us by emailing Section21Approval@fca.org.uk.

Further information on the range of investments covered by the ban and our guidance is available on our [website](#).

Senior Managers and Certification Regime

The Senior Managers and Certification Regime (SM&CR) was extended to most FCA-authorized solo-regulated firms, including financial advisers, on 9 December 2019. The regime sets a new standard of personal conduct for everyone working in financial services. It aims to reduce harm to consumers, strengthen market integrity and encourage the positive transformation of the industry's culture.

We will be assessing compliance with the new SM&CR requirements as part of our ongoing supervisory work.

Action to take

We expect you to ensure your firm's Senior Managers have a clear understanding of their roles and responsibilities and that staff, including Senior Managers and certified staff, have the appropriate skills and capabilities needed to deliver good customer outcomes.

You should consider how the requirements of the regime might affect your people processes and governance. Our website provides support [information](#) and [guidance](#) on how to do this.

From 9 December, the Approved Persons Regime (APR) no longer applies to FSMA authorized firms. However, the provisions of the APR and the relevant APR-controlled functions continue to apply to appointed representatives. This is because the legislation does not give us power to apply the SM&CR to them. If you are a Principal firm, you remain fully responsible for ensuring your appointed representatives and networks comply with our rules, including the APR. You should already have structures and processes in place to do this.

EU Withdrawal

The UK government has committed to the UK leaving the EU on 31 January 2020. When that happens, the UK will enter an implementation period during which it will negotiate its future relationship with the EU. The implementation period is due to operate until 31 December 2020. During this time EU law would continue to apply in the UK. We expect you to consider how the end of the implementation period will affect you and your customers, and what action you may need to take to be ready for 1 January 2021. For information on Brexit, including what the implementation period will mean, visit our [website](#). We will update our pages after exit.

What you need to do next

We expect you to consider and discuss this letter with your fellow directors and/or Board and agree what, if any, further action(s) you should take. We also expect Principal firms to share the contents of the letter with their appointed representatives.

If you have any questions about anything in this letter please contact your normal supervisory contact on 0300 500 0597. This is the primary point of contact for your firm's day-to-day interactions with us, and further details of how we can be reached are available on our [website](#).

However, we recognise that there may be occasions when your firm faces urgent issues of strategic importance. In such circumstances, please contact Chris McGrath on 020 7066 7818 or at Chris.Mcgrath2@fca.org.uk.

Yours sincerely

Debbie Gupta

Director of Life Insurance & Financial Advice Supervision