
FINAL NOTICE

To: **Mr Michael Conway**

Individual

Reference

Number: **MXC00195**

Date of

Birth: **14 April 1956**

Date: **16 December 2013**

ACTION

1. For the reasons given in this Notice, the Authority hereby makes an order prohibiting Mr Conway from performing any function in relation to any regulated activities carried on by any authorised person, exempt person or exempt professional firm. This order takes effect from 16 December 2013.

SUMMARY OF REASONS

2. Mr Conway was a director of CBWPF, a corporate trustee, appointed to six distressed occupational Pension Schemes which had a total of almost 2,000 members, around half of whom were pensioners. Between February 2008 and July

2011 Mr Conway personally received £2.1 million to the detriment of these six Pension Schemes. These funds were paid to Mr Conway in the guise of commissions from the IFA, G&G, hired to provide CBWPF with independent advice on how to invest the Pension Schemes' assets.

3. TPR removed CBWPF as trustee to the Pension Schemes in October 2010 and appointed an Independent Trustee to the six Pension Schemes. Following its appointment the Independent Trustee obtained an injunction against CBWPF, Michael Conway and others freezing all relevant assets and commenced redress and recovery proceedings on behalf of the Pension Schemes. Those proceedings were subsequently settled on terms acceptable to the Independent Trustee. Taking into account the redress measures taken by the Independent Trustee, the Authority does not believe it would be appropriate to impose a separate penalty on Mr Conway since this would diminish the level of assets potentially available to be recovered and returned to the Pension Schemes.
4. Whilst holding the directorship of CBWPF Mr Conway entered into an introducer agreement with G&G, an IFA. Under the terms of the introducer agreement, G&G promised to pay him an agreed percentage of the initial commission or fee received by G&G in respect of any business introduced by him to G&G.
5. Subsequently, CBWPF was appointed trustee to the Pension Schemes. In accordance with the Pensions Act, it appointed independent advisors to advise it on how to invest the Pension Schemes' assets in the best interests of the Pension Schemes' members. The independent advisors appointed, from February 2008, were G&G. This created a conflict of interest between Mr Conway's role as a director of a trustee to the Pension Schemes and his role as a signatory to an agreement with G&G by which he could benefit personally. By 21 July 2010, Mr Conway had received approximately £2.1 million from G&G further to its advice and CBWPF's reinvestment of the assets of the Pension Schemes. This figure included £56,000 which Mr Conway received via a third party for whom he had facilitated the creation of a sham introducer agreement with G&G.
6. During the relevant period, between 1 February 2008 and 21 July 2010, Mr Conway showed a lack of integrity and is therefore not fit and proper to perform any

function in relation to any activities carried on by any authorised or exempt persons, or exempt professional firm in that:

- (a) he facilitated the creation of a sham introducer agreement between a third party that had no connection with the financial services industry and G&G which disguised a payment of approximately £56,000 that passed from G&G to the third party and then on to him;
- (b) on 11 March 2010, he, whilst a director of CBWPF, improperly influenced the financial advice G&G provided when G&G had been appointed by CBWPF to provide independent financial advice to it in relation to the Pension Schemes;
- (c) he was responsible for switching Pension Scheme investments unnecessarily to generate commission payments from which he, or those connected to him, financially benefitted at the expense of the Pension Schemes;
- (d) he received commission payments from G&G despite knowing that this created a conflict of interest with his role as a director of CBWPF; and
- (e) he failed to manage or disclose to the Pension Schemes the conflict of interest between his duty as director of the corporate trustee to the Pension Schemes and his status and personal interest as signatory to an introducer agreement with G&G, the advisors to the Pension Schemes.

- 7. Accordingly, the Authority has decided to impose a Prohibition Order on him.
- 8. This action supports the Authority's statutory objectives of maintaining market confidence in the UK financial system and securing the appropriate degree of protection for consumers.

DEFINITIONS

- 9. The definitions below are used in this Warning Notice:

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

the "Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

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

"CBWPF" means CBW Pension Forensics Limited;

"CF1" means the Authority controlled function of Director;

"CF10" means the Authority controlled function of Compliance Oversight;

"DEPP" means the Decision Procedures and Penalties Manual in the Authority Handbook;

"EG" means the Enforcement Guide in the Authority Handbook;

"Fund M" means the property investment fund into which the assets of four Pension Schemes were invested following the advice given by G&G on 6 April 2010;

"G&G" means G&G Financial Services Limited;

"IFA" means independent financial advisor;

"Independent Trustee" means the independent trustee referred to in paragraph 19;

"Independent Expert Report" means the independent expert report referred to in paragraph 23;

the "Investment Regulations" means the Occupational Pension Schemes (Investment) Regulations 2005;

"Mr Conway" means Mr Michael Conway;

the "Pensions Act" means the Pensions Act 1995;

the "Pension Schemes" means the six distressed occupational pension schemes to which CBWPF was appointed corporate trustee;

the "Prohibition Order" means the order to be made pursuant to section 56 of the Act prohibiting Mr Conway from performing any function in relation to any regulated activity carried on by any authorised person, exempt person or exempt professional firm;

the "relevant period" means 1 February 2008 to 21 July 2010;

"SOIPs" means the Statements of Investment Principles of the Pension Schemes;

"Staverton" means Staverton Wealth Management Limited;

"TPR" means The Pensions Regulator; and

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

FACTS AND MATTERS

Staverton

10. Staverton was a small family run IFA based in Birmingham, which was incorporated on 12 May 1999. From 12 May 1999 Mr Conway was a joint director of Staverton, with one other director. Mr Conway held 40% of the shares in Staverton at the start of the relevant period and no longer held any shares on 12 May 2009.
11. On 14 October 2008, Mr Conway ceased to be a director of Staverton.
12. Staverton has ceased trading and its permission to carry on regulated activities under Part IV of the Act was cancelled on 9 May 2012.

CBWPF

13. CBWPF was incorporated on 12 June 2001. Mr Conway was the sole shareholder and a director of CBWPF until its dissolution on 10 January 2012.
14. Between the period June 2007 and July 2008, CBWPF was appointed as trustee to the Pension Schemes. It remained the sole trustee for the Pension Schemes until 6 July 2010. During this period, CBWPF exercised its power of investment and disinvestment as trustee in relation to the assets of the Pension Schemes. Mr Conway, as primary director of CBWPF, controlled the assets and investments of the Pension Schemes.
15. As a corporate trustee to the Pension Schemes, CBWPF and its directors had to have regard to the Pensions Act and the Investment Regulations when making investment decisions on behalf of the Pension Schemes. Section 248 of the Pensions Act 2004 obliges directors of corporate trustees to have knowledge and understanding of the law relating to pensions and trusts.

G&G

16. CBWPF was not authorised to provide investment advice to the Pension Schemes or conduct any Authority-regulated activities. Therefore, from February 2008 Mr Conway, in his capacity as director of CBWPF, appointed G&G, an IFA, to advise CBWPF on arranging and managing the investments of the Pension Schemes. The sole financial advisor at G&G who advised CBWPF in respect of the Pension Schemes, Mr Andrew Powell, had previously worked as an investment advisor at Staverton between November 2003 and August 2004.
17. In 2008, Mr Conway invited Mr Powell to join Staverton as a director. Although he declined Mr Conway's offer and remained at G&G, he was temporarily registered as a CF1 of Staverton between September and October 2008.
18. G&G was dissolved on 5 July 2012.

TPR findings

19. In July 2010, TPR received a report which raised questions about the conduct of CBWPF. An investigation by TPR followed, and, as a result, the Determinations Panel of TPR made a determination on 28 October 2010 to appoint the Independent Trustee to each of the Pension Schemes pursuant to sections 7(3)(a), (c) and (d) of the Pensions Act 1995.
20. On 28 March 2011 the Determinations Panel of TPR met to conduct a Compulsory Review of its earlier determination from October 2010 in light of representations received from the parties involved. Following this meeting, the Determinations Panel of TPR issued a Final Notice on 18 April 2011 in which it upheld the determination made on 28 October 2010. References below to conclusions by TPR refer to conclusions contained in TPR's Final Notice.
21. In reaching its decision, the Determinations Panel of TPR made several findings in relation to the investments made by CBWPF, on behalf of the Pension Schemes, including:
 - (a) Unsuitability of investments – many and persistent failures to observe section 36(3) of the Pensions Act, which required the trustee to obtain and consider proper advice on the question of whether the investment is satisfactory.
 - (b) SOIPs – a number of failures to observe section 36(3) of the Pensions Act, which required the trustee to have regard to the SOIPs and exercise their powers of investment with a view to giving effect to the SOIPs.
 - (c) Security, quality, liquidity and profitability – breaches of regulation 4(3), 4(5) and 4(6) of the Investment Regulations, which required the trustee to:
 - (i) exercise their powers of investment in a manner calculated to ensure security, quality, liquidity and profitability of the portfolio;
 - (ii) ensure that the assets of the Pension Scheme consist predominantly of investments admitted to trading on regulated markets;
 - (iii) ensure that for investments not invested on regulated markets, the assets be kept to a prudent level.

- (d) Diversification – a breach of regulation 4(7) of the Investment Regulations which required the assets of the Pension Scheme to be diversified properly so as to avoid excessive reliance on a particular asset, issuer or group of undertakings and to avoid accumulations of risk in the portfolio as a whole.
 - (e) Conflicts of interest – breach of regulation 4(2)(b) of the Investment Regulations, which required the trustee to exercise their powers of investment such that the assets be invested, in the case of a potential conflict of interest, in the sole interests of members and beneficiaries.
22. The Authority agrees with the findings of the Determination Panel of TPR as set out in its Final Notice of 18 April 2011. The findings have not been referred to the Tribunal or otherwise formally challenged by any party to the TPR proceedings.
23. The Independent Trustee appointed an independent expert to advise them in relation to the Pension Schemes. The independent expert produced a preliminary report providing an initial overview of the investments made by CBWPF in relation to the Pension Schemes. This report was included in the representations of the Independent Trustee submitted to the Determinations Panel by TPR. The Determinations Panel of TPR considered this report and made reference to it in its Final Notice.

Commission sharing arrangements and introducer agreements

24. To remunerate G&G for its investment advice to CBWPF regarding the Pension Schemes, CBWPF, through Mr Conway, agreed that G&G should retain commission paid to it by the providers of the investment products in which the Pension Schemes assets were invested.
25. Commission payments were usually deducted from the investment itself and were effectively funded by the Pension Schemes. Every time funds were switched between investments, transfer fees and commission payments were funded by the Pension Schemes.
26. Prior to any commission being received by G&G in relation to investments, written introducer agreements had been entered into between G&G and various parties. On

their face, these agreements provided for the payment of commission to the signatories of those agreements who subsequently introduced business to G&G.

27. On 10 May 2007, Mr Conway entered into an introducer agreement with G&G on behalf of Staverton and himself. Under the terms of the introducer agreement, G&G promised to pay its counterparty an agreed percentage of the initial commission or fee received by G&G in respect of any business introduced by the counterparty to G&G.
28. The practical effect of these arrangements was for Mr Conway and Staverton to receive a share of the commission paid to G&G for the advice provided to CBWPF, of which Mr Conway was the principal director and sole shareholder. After Mr Conway resigned from Staverton on 14 October 2008 he remained as director of CBWPF and continued to receive commission payments from G&G under the introducer agreements.
29. TPR's investigation team concluded that Mr Conway received approximately £2.1 million as a result of commission payments from G&G. TPR's figures were not challenged by any parties to the proceedings before the TPR's Determination Panel and the Authority agrees with the TPR commission payment analysis.
30. There is no evidence to suggest that Mr Conway disclosed the introducer agreements, commission sharing arrangements or commission payments to the Pension Schemes.

Mr Conway's conflict of interest

31. From February 2008, when Mr Conway appointed G&G as advisor to CBWPF, he had a conflict of interest. At that point, Mr Conway and Staverton were party to an introducer agreement with G&G which entitled them to a share of G&G's commissions. Mr Conway's interest in this agreement (both in his private capacity and as a director and shareholder of Staverton) conflicted with his role as director of the corporate trustee to the Pension Schemes, which obliged him to act in the best interests of the Pension Schemes. This was because, as referred to in the TPR Final Notice, it was in Mr Conway's personal financial interest "*to select investments*

which paid a large commission and to churn investments in order to obtain further commissions."

32. TPR found CBWPF had breached regulation 4(2)(b) of the Investment Regulations and had not understood or managed conflicts of interests. It concluded:

"The [TPR Determinations] Panel noted that the [introducer agreements] with [Mr Conway]continued after the CBW companies became trustees of the relevant [Pension Scheme]. The [TPR Determinations] Panel has no doubt that [Mr Conway]...directly and... also by virtue of his involvement with Staverton, [was] conflicted in relation to both appointing and then considering advice received from G&G (and later Staverton)."

33. TPR concluded that *"there was clear evidence of the portfolios [of the Pension Schemes] having been churned and consequent high commission charges, redemption fees and initial charges paid out to the detriment of the [Pension] Schemes. "*
34. The Authority agreed with that conclusion.

Mr Conway's role in the creation of a sham introducer agreement between a third party that had no connection with the financial services industry and G&G which disguised a payment of approximately £56,000 to him

35. In early 2008, whilst a director at Staverton, Mr Conway facilitated the setting up of an introducer agreement between G&G and a third party who had no involvement in financial services. This third party signed an introducer agreement with G&G, which it received through the post.
36. The third party was an executive car hire firm which provided taxi services to Mr Conway and had never been involved in, nor had it any contacts with, the financial services industry. It confirmed that it was Mr Conway (and not G&G) who initially approached them to gauge interest in becoming *"an introducer of clients who had investments to make."* It did not meet with G&G or its representatives before or after signing the introducer's agreement. The third party confirmed to the Authority that its understanding was that the agreement with G&G would be to

"share any commission on business generated through Mr Conway's contacts... " and not its own. This does not accord with the agreement that the third party signed which makes reference only to the payment of commission by G&G for clients introduced by the third party.

37. No business was introduced to G&G by the third party. Despite this, in March 2008, the third party received a payment of £100,000 from G&G pursuant to the introducer agreement, of which £56,000 was paid, by the third party, to Mr Conway. No further payments were transacted pursuant to this introducer agreement which was used effectively to disguise a payment to Mr Conway.

Mr Conway's improper influence over advice provided by G&G

38. Section 36 of the Pensions Act requires trustees of a pension scheme to *"obtain and consider proper [i.e. independent] advice on the question of whether the investment is satisfactory"* before making an investment. As referred to above, Mr Conway, on behalf of CBWPF, appointed G&G as independent financial advisors from February 2008 in relation to the Pension Schemes. Mr Powell, a former employee of Staverton, was the sole advisor charged with advising CBWPF.
39. During the course of his relationship with CBWPF, Mr Powell prepared investment reports recommending investments for the Pension Schemes' funds.
40. On 11 March 2010, Mr Conway in his capacity as director of CBWPF, emailed Mr Powell demanding that Mr Powell disinvest £8 million of assets of the Pension Schemes (without identifying which specific Schemes he wished the disinvestment to affect) in order that CBWPF could re-invest the sums in Fund M of Mr Conway's designation. Specifically, Mr Conway wrote, *"Andy, you advise us were [sic] to take the [£8 million] if you are not up to the job I will appoint someone else who can."* This was a deliberate and improper attempt to influence the advice he received from G&G, notwithstanding his obligation to obtain and consider proper advice by virtue of the Pensions Act. Mr Powell responded the same day to Mr Conway by email:

"If we fully invest the [Pension Scheme] funds in the [investment] we will be over exposed to one speculative asset class and would be liable should the [Authority] or

Pensions regulator review the case. I would be delighted to reinvest your funds but we have to make sure we do it in the right way so that neither you nor I can be open to criticism. Ultimately it's your money and you can tell us where you want it."

41. Mr Powell's concerns were justified. Fund M was both illiquid and high risk, in the finding of the TPR. Notwithstanding his concerns, on 6 April 2010, Mr Powell prepared four almost identically worded investment reports for CBWPF. These reports, each of which advised in relation to a distinct Pension Scheme, recommended investment in Fund M which Mr Conway had mentioned in his email of 11 March 2010, along with other investments.
42. Specifically, the four reports recommended that a total of £8 million be invested in Fund M on behalf of four Pension Schemes. This was the exact sum requested by Mr Conway for investment purposes. The advice contained within Mr Powell's four reports of 6 April 2010 to invest in Fund M was a direct result of Mr Conway's inappropriate influence over Mr Powell.
43. The four Pension Schemes were the only investors in Fund M. This would have made exit from the fund problematic. Moreover, the Independent Expert Report highlighted the *"significant concentration risk arising from the fact that [Fund M] invests in the small number of property developments of a single property developer."*

FAILINGS

44. The regulatory provisions relevant to this Final Notice are referred to in the Annex to this Notice.
45. Mr Conway showed a lack of integrity and is therefore not fit and proper to perform any function in relation to any regulated activities carried on by any authorised or exempt persons, or exempt professional firm in that:
 - (1) he facilitated the creation of a sham introducer agreement between a third party that had no connection with the financial services industry and G&G which disguised a payment of approximately £56,000 that passed from G&G to the third party and then on to him;

- (2) on 11 March 2010, he, whilst a director of CBWPF, improperly influenced the financial advice G&G provided when G&G had been appointed by CBWPF to provide independent financial advice to it in relation to the Pension Schemes;
- (3) he was responsible for switching Pension Scheme investments unnecessarily to generate commission payments from which he, or those connected to him, financially benefitted at the expense of the Pension Schemes;
- (4) he received commission payments from G&G despite knowing that this created a conflict of interest with his role as director of CBWPF; and
- (5) he failed to manage or disclose to the Pension Schemes the conflict of interest between his duty as director of the corporate trustee to the Pension Schemes and his status and personal interest as signatory to an introducer agreement with G&G, the advisors to the Pension Schemes.

SANCTION

Prohibition Order

46. The Authority has had regard to the guidance in Chapter 9 of EG and decided that it is appropriate and proportionate in all the circumstances to prohibit Mr Conway from performing any function in relation to any regulated activity carried out by an authorised person, exempt person or exempt professional firm because his conduct demonstrates a lack of integrity. The relevant provisions of EG are set out in the Annex of this Notice.
47. Given the nature and seriousness of the failures outlined above, the Authority has decided that Mr Conway's conduct demonstrates a lack of honesty and integrity such that he is not fit and proper to perform any function in relation to regulated activities carried on at any authorised person, exempt person or exempt professional firm.

48. In the interests of consumer protection, the Authority has decided that it is appropriate and proportionate in all the circumstances to impose a Prohibition Order on Mr Conway in the terms set out above.

PROCEDURAL MATTERS

Decision maker

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

This Final Notice is given to Mr Conway under, and in accordance with, section 390 of the Act.

Publicity

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

Authority contacts

52. For more information concerning this matter generally, contact Paul Howick (direct line: 020 7066 7954/ [email: paul.howick@fca.org.uk](mailto:paul.howick@fca.org.uk)) of the Enforcement and Financial Crime Division of the Authority.

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Bill Sillett

Head of Department

Financial Conduct Authority, Enforcement and Financial Crime Division

Annex

STATUTORY PROVISIONS, REGULATORY GUIDANCE AND POLICY

Statutory Provisions under the Act

1. The Authority's regulatory objectives are set out in section 2(2) of the Act and include maintaining confidence in the financial system and the protection of consumers.
2. Section 56 of the Act provides that the Authority may make a prohibition order if it appears to the Authority that an individual is not a fit and proper person to perform functions in relation to a regulated activity carried on by an authorised person. Such an order may relate to a specific regulated activity, an activity falling within a specified description or all regulated activities.

Fit and Proper Test for Approved Persons ("FIT")

3. The section of the Authority handbook entitled "FIT" sets out the Fit and Proper test for Approved Persons. The purpose of FIT is to outline the main criteria for assessing the fitness and propriety of a candidate for a controlled function and FIT is also relevant in assessing the continuing fitness and propriety of an approved person.
4. FIT 1.3.1G provides that the Authority will have regard to a number of factors when assessing a person's fitness and propriety. The most important considerations include the person's honesty, integrity and reputation.
5. In determining a person's fitness and propriety FIT 2.2.1 provides that the Authority will have regard to matters including, but not limited to:
 - (1) whether the person has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;

- (2) whether the person has been the subject of, or interviewed in the course of, any existing or previous investigation or disciplinary proceedings, by the Authority, by other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies;
- (3) whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings;
- (4) whether the person has contravened any of the requirements and standards of the regulatory system or the equivalent standards or requirements of other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies;
- (5) whether the person, or any business with which the person has been involved, has been investigated, disciplined, censured or suspended or criticised by a regulatory or professional body, a court or Tribunal, whether publicly or privately;
- (6) whether, in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards.

EG

6. The Authority's approach to exercising its powers to make a prohibition order under section 56 of the Act is set out in Chapter 9 of EG.
7. EG 9.1 states that the Authority's power under section 56 of the Act to prohibit individuals who are not fit and proper from carrying out controlled functions in relation to regulated activities helps the Authority to work towards achieving its regulatory objectives. The Authority may exercise this power to make a prohibition

order where it considers that, to achieve any of those objectives, it is appropriate either to prevent an individual from performing any functions in relation to regulated activities, or to restrict the functions which he may perform.

8. EG 9.4 sets out the general scope of the Authority's powers in this respect, which include 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.
9. EG 9.5 provides that the scope of a prohibition order will vary according to 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.
10. In circumstances where the Authority has concerns about the fitness and propriety of an approved person, EG 9.8 to 9.14 provides guidance. In particular, EG 9.8 states that the Authority may consider whether it should prohibit that person from performing functions in relation to regulated activities, and that the Authority will consider whether its regulatory objectives can be achieved adequately by imposing disciplinary sanctions.
11. EG 9.9 provides that when deciding whether to make a prohibition order against an approved person, the Authority will consider all the relevant circumstances of the case, which may include (but are not limited to):
 - (1) whether the individual is fit and proper to perform functions in relation to regulated activities. The criteria for assessing the fitness and propriety are set out in FIT 2.1 (Honesty, integrity and reputation), FIT 2.2 (Competence and capability) and FIT 2.3 (Financial soundness);
 - (2) the relevance and materiality of any matters indicating unfitness;
 - (3) the length of time since the occurrence of any matters indicating unfitness;

- (4) the particular controlled function the approved person is (or was) performing, the nature and activities of the firm concerned and the markets in which he operates; and
 - (5) the severity of the risk which the individual poses to consumers and to confidence in the financial system.
12. EG 9.12 gives examples of types of behaviour which have previously resulted in the Authority deciding to issue a prohibition order, including severe acts of dishonesty and serious breaches of the Statements of Principle and Code of Conduct for Approved Persons.

Requirements under the Pensions Act 1995 and related legislation

13. Section 36(1) of the Pensions Act 1995 and Regulation 4(2) of the Occupational Pensions Schemes (Investment) Regulations 2005 ("the Regulations") impose requirements on trustees of pension schemes to act in the best interest of scheme members.
14. Section 36(1) requires that the trustees of a trust scheme must exercise their powers of investment in accordance with subsections (3) and (4) of the Regulations.
15. Subsections (3) and (4) of the Regulations are detailed provisions, but in summary they provide that trustees of a scheme must, *inter alia*:
- (1) invest assets in the best interests of members and beneficiaries;
 - (2) in the case of a potential conflict of interest invest the assets in the sole interest of members and beneficiaries;
 - (3) exercise the powers of investment in a manner calculated to ensure the security, quality, liquidity and profitability of the portfolio as a whole; and
 - (4) ensure that the assets of the scheme are properly diversified in such a way to avoid excessive reliance on any particular asset, issuer or group of

undertakings and so as to avoid accumulations of risk in the portfolio as a whole.

16. Section 36(3) of the Pensions Act 1995 states that "before investing [pension scheme assets] in any manner...the trustees must obtain and consider proper advice on the question whether the investment is satisfactory having regard to... [the SOIPS]."