**FINAL NOTICE**

To: **Kristo Käärmann**

Individual Reference Number: **KXK01525**

Date: 27 October 2024

## 1. ACTION

1.1. For the reasons given in this Final Notice, the Authority hereby imposes on Kristo Käärmann ("Mr Käärmann") a financial penalty of £350,000 pursuant to section 66 of the Financial Services and Markets Act 2000 ("the Act").

1.2 Mr Käärmann agreed to resolve this matter and qualified for a 30% (stage 1) discount under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed a financial penalty of £500,000 on Mr Käärmann.

## 2. SUMMARY OF REASONS

2.1. The Authority considers that, between 7 February 2021 and 28 September 2021 ("the Relevant Period"), Mr Käärmann failed to ensure that the Authority was notified of relevant information relating to a significant financial penalty imposed on him by HMRC, which included a determination by HMRC that Mr Käärmann had deliberately failed to notify it of Capital Gains Tax ("CGT") he was obliged to pay on a large share disposal in 2017.

2.2. During the Relevant Period, Mr Käärmann was the Chief Executive Officer ("CEO") and a director of Wise Assets UK Ltd ("WAUK"), a firm authorised under Part 4A

of the Act, where he held the SMF1 (Chief Executive) and the SMF3 (Executive Director) senior manager roles. He was also a director of Wise Payments Limited ("WPL"), an Authorised Electronic Money Institution ("AEMI") regulated by the Authority. Both firms form part of the Wise group.

2.3. On 29 September 2017, Mr Käärmann made a share disposal of approximately $10m ("the Share Disposal"). This gave rise to a significant CGT liability of £720,425.80. Mr Käärmann failed to declare the Share Disposal to HMRC and pay the resulting CGT within the prescribed time period.

2.4. On 25 June 2020, HMRC wrote to Mr Käärmann informing him that because he had failed to notify it of the CGT, it was conducting a compliance check into his tax affairs. As part of this, Mr Käärmann was asked to provide an explanation as to why he had failed to declare the CGT on time. He was also warned that he might be issued with a financial penalty and could subsequently have his name added to HMRC's public list of deliberate tax defaulters ("the Defaulters List"). Mr Käärmann was aware of this at the time but did not respond to it.

2.5. Subsequently, on 18 November 2020, HMRC sent a letter informing Mr Käärmann that it intended to impose on him a financial penalty amounting to £365,651.21 ("the HMRC Penalty"). The level of the penalty was based on a determination that HMRC considered Mr Käärmann to have deliberately failed to disclose the Share Disposal and pay the CGT liability when due (i.e. that he was a deliberate tax defaulter). This HMRC correspondence contained further details informing Mr Käärmann that he might be added to the Defaulters List. Mr Käärmann did not open the letter at the time.

2.6. On 24 December 2020, HMRC issued Mr Käärmann with a 'Notice to Pay' letter informing him that it had imposed the HMRC Penalty as proposed in its letter of 18 November 2020. Mr Käärmann was given one month to pay the HMRC Penalty and was informed in this letter of his right to appeal. Mr Käärmann did not open the letter at the time, however, due to absence abroad.

2.7. On 6 February 2021, Mr Käärmann returned from two months' abroad and opened the two previously unopened letters from HMRC dated 18 November 2020 and 24 December 2020. Upon becoming aware of the HMRC Penalty from that correspondence, Mr Käärmann immediately arranged for payment from 7 February 2021.

2.8. Therefore, by 7 February 2021, Mr Käärmann was aware of the HMRC Penalty and relevant correspondence concerning the same. Despite this, Mr Käärmann failed to bring to the Authority's attention any details of HMRC's determination that he was a deliberate tax defaulter, including the resulting HMRC Penalty, the possibility that he could be added to the Defaulters List as a result, or the relevant circumstances surrounding the above issues (collectively, the "tax issues").

2.9. On 22 September 2021, HMRC added Mr Käärmann to the Defaulters List, having determined that his deliberate failure to declare the CGT on the Share Disposal had met the applicable threshold for publication.

2.10. On 27 September 2021, the Authority became aware of the tax issues having been contacted by a journalist for comment. The Authority contacted Wise asking for further details. The following day, Mr Käärmann notified the Authority that he had been added to the Defaulters List.

2.11. Accordingly, between 7 February 2021 and 28 September 2021, Mr Käärmann failed to notify the Authority (or otherwise ensure WAUK and WPL notified the Authority) of the tax issues, despite being aware of them for some 7 months. The Authority expected to be notified of the tax issues for the following reasons:

a) An adverse finding had been made against Mr Käärmann by another statutory / regulatory body, namely HMRC. The nature of HMRC's determination, the fact that it was a deliberate tax default, the significant size of the resulting HMRC Penalty, and the potential for public censure via inclusion on the Defaulters List meant the tax issues fell for disclosure to the Authority. This is in accordance with the Authority's Fit and Proper guidance ("FIT"). The tax issues were relevant and significant to the Authority's real time assessment of Mr Käärmann's fitness and propriety to perform his senior manager role at WAUK, as well as his senior role as director at WPL; and

b) The tax issues also had the potential to have a significant adverse effect on the reputation of both regulated firms. Indeed, Mr Käärmann's subsequent inclusion on the Defaulters List attracted wide media attention. The tax issues therefore fell for disclosure given their relevance and significance to the Authority's ongoing supervision of WAUK and WPL, and WAUK and WPL's own notification obligations as authorised firms.

2.12. Mr Käärmann's failure to notify the Authority of the tax issues during the Relevant Period was in breach of Senior Manager Conduct Rule 4 ("SMCR 4"), which he was required to comply with as SMF1 (Chief Executive) and SMF3 (Executive Director) of WAUK. SMCR 4 requires that individuals must disclose appropriately any information of which the Authority would reasonably expect notice. The Authority expects self-notification by an Authority-approved senior manager of any matters that may be significant to their fitness and propriety, which includes matters that may have an adverse impact on their reputation and/or that of their firms.

2.13. Mr Käärmann also did not disclose the tax issues to WAUK and WPL during the Relevant Period. By not doing so, no one else at WAUK and WPL was able to assess and subsequently notify the Authority of the tax issues, on behalf of the firms, in accordance with the firms' applicable notification requirements, including Principle 11 of the Authority's Principles for Businesses ("the Principles"). Principle 11 requires firms to disclose to the Authority appropriately anything relating to the firm of which the Authority would reasonably expect notice. Matters that firms must notify to the Authority include any matter that may be significant to a relevant person's fitness and propriety, such as approved persons.

2.14. The Authority considers that Mr Käärmann's approach to his notification of the tax issues was careless, as opposed to deliberate or reckless: he did not appropriately consider the significance of the tax issues and whether a notification to the Authority was required, which led to his failure to notify the Authority of the tax issues. Throughout the Relevant Period, Mr Käärmann could have sought advice in relation to whether the tax issues ought to be notified to the Authority, but he failed to consider the tax issues in the context of his regulatory duties, wrongly believing them to be personal matters that were unrelated to his fitness and propriety.

2.15. In failing to notify the Authority of the tax issues, Mr Käärmann's actions fell below the standards expected of those holding senior positions at firms authorised by the Authority. Consequently, his inaction prevented the Authority from assessing in real time what (if any) impact the tax issues might have on its operational objectives, including whether there were steps it might wish to take in response. It was wholly inappropriate for the tax issues to first come to the Authority's attention from a third party, and not from Mr Käärmann and/or WPL and WAUK.

2.16. Compliance with the relevant regulatory rules are ongoing obligations and high standards are expected of authorised firms, approved persons and relevant individuals at AEMIs, in particular senior personnel. A CEO, in particular, is expected to set an example to their staff and their customers. Firms and relevant individuals are required to assess whether a notification to the Authority is required on a case-by-case basis. The Authority expects notice of any matters that may be material to an individual's fitness and propriety and their (or their firm's) reputation. Matters that fall for disclosure include (but are not limited to) material adverse findings from, and/or penalties imposed by, a regulatory and/or statutory body (such as HMRC).

2.17. It is also imperative that relevant individuals give appropriate consideration to the fact that their actions may not only have an adverse reputational and/or regulatory impact on themselves, but also on their firms.

2.18. For the reasons given in this Final Notice, the Authority hereby imposes on Mr Käärmann a financial penalty of £350,000 pursuant to section 66 of the Act.

2.19. This action advances the Authority's operational objective of protecting and enhancing the integrity of the UK financial system.

## 3 DEFINITIONS

3.1 The definitions below are used in this Notice:

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

"AEMI" means an Authorised Electronic Money Institution, as defined in Regulation 2(1) of the EMRs;

"the Authority" means the Financial Conduct Authority;

"CEO" means Chief Executive Officer;

"CGT" means the capital gains tax due on the US$10m share disposal made by Mr Käärmann during the 2017/18 tax year;

"Code of Conduct" means part of the Authority's Handbook in High Level Standards, which includes rules for those performing senior management functions;

"DEPP" means the Authority's Decision Procedure and Penalties Manual, part of the Handbook;

"the EMRs" means the Electronic Money Regulations 2011;

"the Handbook" means the collection of regulatory rules, manuals and guidance issued by the Authority in its Handbook as in force during the Relevant Period;

"HMRC" means His Majesty's Revenue and Customs;

"the HMRC Penalty" means the financial penalty imposed by HMRC on Mr Käärmann in the sum of £365,651.21;

"Mr Käärmann" means Kristo Käärmann;

"the Defaulters List" means a list published by the HMRC from time to time of those it considers to be deliberate tax defaulters;

"Principles" means the rules set out in the section of the Handbook entitled "Principles for Businesses";

"RDC" means the Regulatory Decisions Committee of the Authority;

"the Relevant Period" means the period from 7 February 2021 to 28 September 2021;

"the self-assessment" means Mr Käärmann's HMRC self-assessment tax return for the tax year 2017/18;

"the Share Disposal" means Mr Käärmann's 2017/18 share disposal of approximately US$10m;

"SMF1" means the Chief Executive controlled function;

"SMF3" means the Executive Director controlled function;

"SMCR 4" means Senior Manager Conduct Rule 4 within the Authority's Code of Conduct;

"the tax issues" means HMRC's determination that Mr Käärmann was a deliberate tax defaulter, including the resulting HMRC Penalty, the possibility that he could be added to the Defaulters List as a result, and the relevant circumstances surrounding the above issues;

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

"WAUK" means Wise Assets UK Ltd, which was formerly known as TINV Ltd until 16 October 2024. WAUK is a subsidiary of Wise and authorised by the Authority under Part 4A of the Act since 25 February 2020;

"Wise" means Wise Plc, an unregulated company listed on the London Stock Exchange; and

"WPL" means Wise Payments Ltd, a subsidiary of Wise and authorised as an AEMI under the EMRs since 7 June 2018. It was formerly called TransferWise Limited until 19 September 2021.

## 4 FACTS AND MATTERS

Background

4.1 On 25 February 2020, Mr Käärmann was approved by the Authority to perform the SMF1 and SMF3 roles at WAUK. Mr Käärmann is a director of WAUK and has been since it was incorporated on 26 March 2019. He ceased to perform the SMF3 role on 27 October 2022, but continues to perform the SMF1 role. Whilst approved as a senior manager, Mr Käärmann has been obliged to abide by the Authority's regulatory requirements, including the Individual Conduct Rules and Senior Manager Conduct Rules.

4.2 WAUK is an investment firm. It has been authorised by the Authority since 25 February 2020 under Part 4A of the Act to deal in and arrange investments and the safeguarding of assets. WAUK has therefore been subject to the Authority's regulatory requirements, including the Principles, throughout the Relevant Period.

4.3 WPL is an AEMI. It has been authorised as such by the Authority since 7 June 2018 with permissions to issue electronic money and provide payment services. Mr Käärmann is also a director of WPL and has been since it was incorporated on 31 March 2010. By virtue of being authorised as an AEMI, WPL has therefore been subject to the Authority's regulatory requirements applicable to AEMIs throughout the Relevant Period. This includes the requirements set out in the Principles.

4.4 Mr Käärmann is also the CEO, director, co-founder, and majority shareholder of Wise. Wise is the ultimate parent company of WAUK and WPL. Wise is listed on the London Stock Exchange but not authorised by the Authority.

Mr Käärmann and HMRC

4.5 On 29 September 2017, Mr Käärmann made the Share Disposal, which gave rise to a significant CGT liability of £720,425.80 for the 2017/2018 tax year. The deadline for Mr Käärmann (or a representative on his behalf) to disclose the CGT by filing a self-assessment was 31 January 2019. Mr Käärmann did not submit the self-assessment or otherwise declare the Share Disposal to HMRC by this deadline.

4.6 In February 2019, HMRC identified the Share Disposal through open-source checks. HMRC wrote to Mr Käärmann asking him to complete a self-assessment and to disclose the Share Disposal, so that it could determine Mr Käärmann's correct tax liability.

4.7 On 9 July 2019, absent a response, HMRC wrote to Mr Käärmann informing him that it had estimated how much tax he owed for the 2017/2018 tax year. This included a sum for his CGT liability on the Share Disposal.

4.8 On 22 October 2019, Mr Käärmann paid the CGT as determined by HMRC.

4.9 On 25 June 2020, HMRC wrote to Mr Käärmann informing him that, because there had been a failure by him to notify it of the CGT, it was conducting a compliance check into his 2017/18 tax affairs. HMRC requested that Mr Käärmann provide details of the circumstances that led to this failure, so it could consider whether there was a reasonable excuse and whether a penalty should be imposed on him. The letter was accompanied by a factsheet, which explained that if a penalty was imposed, it might lead to Mr Käärmann having his name added to the Defaulters List. Mr Käärmann did not respond to this letter and, during his interview with the Authority, he explained that he did not respond to HMRC's request because he did not consider himself to have a reasonable excuse for his failure to declare the CGT on time.

4.10 On 18 November 2020, HMRC wrote to Mr Käärmann informing him that it intended to impose on him a penalty amounting to £365,651.21 (i.e. the HMRC Penalty). The level of the penalty was based on a determination that HMRC considered him to have deliberately failed to disclose the Share Disposal and pay the CGT liability when due. Mr Käärmann was informed of this determination and given an opportunity to provide comments if he disagreed with the proposed action, but did not open the letter at the time and therefore did not respond.

4.11 On 24 December 2020, HMRC sent a 'Notice to Pay' letter to Mr Käärmann informing him that it had imposed the HMRC Penalty as proposed in its letter of 18 November 2020. Mr Käärmann was required to pay the HMRC Penalty on or before 23 January 2021 and was also informed of his right to appeal. However, Mr Käärmann did not open the letter at the time due to his absence abroad.

4.12 On 6 February 2021, Mr Käärmann returned to the UK having spent approximately two months abroad. The following day, he opened and read the letters from HMRC dated 18 November 2020 and 24 December 2020, which had previously been unopened. He immediately paid most of the penalty that day with the remainder shortly after, as soon as he was able to release the necessary funds. The Authority considers that Mr Käärmann should have then made an immediate notification to the Authority of the tax issues at this point.

4.13 On 8 July 2021 and 25 August 2021, respectively, HMRC sent letters to Mr Käärmann informing him that it was considering adding him to the Defaulters List. These letters gave Mr Käärmann an opportunity to provide comments if he disagreed with the action being considered. Mr Käärmann did not receive these letters as he had moved house at the end of March 2021 and the letters had been sent to his previous address. He therefore did not reply to the letters. Mr Käärmann did not have a postal redirect in place upon moving addresses and had not informed HMRC of his new postal address.

4.14 On 22 September 2021, HMRC added Mr Käärmann to the Defaulters List. This was a result of HMRC determining that Mr Käärmann's failure to declare the CGT on the Share Disposal had met the applicable threshold for publication on the Defaulters List. The criteria for inclusion on the Defaulters List include if an individual has been subject to: a tax penalty for deliberate failure to declare CGT; the tax penalty is in

consequence of an investigation; and that the potential lost revenue for HMRC exceeds £25,000 or more in a tax year.

4.15 On 27 September 2021, the Authority was contacted by a journalist about Mr Käärmann's inclusion on the Defaulters List. The Authority had no knowledge of Mr Käärmann's tax issues prior to this. As such, the Authority contacted Wise for comment on the same day. Wise replied saying they would look into the matter and revert.

4.16 On 28 September 2021, Mr Käärmann emailed the Authority briefly stating he had been added to the Defaulters List.

4.17 On 1 October 2021, Wise submitted a formal notification to the Authority, pursuant to Principle 11, on behalf of WAUK and WPL. This disclosed brief details about Mr Käärmann's inclusion on the Defaulters List, and set out steps that Wise was taking regarding the matter.

Mr Käärmann's failure to notify the Authority of the tax issues

4.18 During his interview with the Authority, Mr Käärmann stated that 7 February 2021 was the date on which he had become aware of the HMRC Penalty: having opened all the previous correspondence he had received, but not opened, from HMRC, after which he immediately made a payment towards the HMRC Penalty.

4.19 The Authority therefore considers that from 7 February 2021, at the latest, Mr Käärmann was aware of the tax issues, which were potentially significant to the Authority's assessment of his fitness and propriety (in accordance with FIT). They were also potentially significant to the Authority's supervision of WAUK and WPL given the significant adverse effect the tax issues could have on their reputation due to Mr Käärmann's senior position at these firms.

4.20 As such, once Mr Käärmann became aware of the tax issues on 7 February 2021, he was obliged to have notified the Authority of them in a timely and appropriate manner in his capacity as a senior manager. He also should have reported the matter to WAUK and WPL so that they could ensure appropriate notifications were made to the Authority pursuant to their own regulatory obligations.

## 5 FAILINGS

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

5.2 SMCR 4 requires that the position holder must disclose appropriately any information of which the Authority would reasonably expect notice. The Authority would reasonably expect self-notification by a Authority-approved senior manager, via the authorised firms for which they are approved or if necessary directly, of any matters that may be significant to the Authority's assessment of their fitness and propriety, which includes but is not limited to matters that may have an adverse impact on their reputation and/or that of their firms.

5.3 The tax issues fell for disclosure for the following reasons:

a) An adverse finding had been made against Mr Käärmann by another statutory / regulatory body, namely HMRC. The nature of the HMRC determination, the fact that this was a deliberate tax default, the significant size of the resulting HMRC Penalty, and the potential for public censure via inclusion on the Defaulters List, meant the tax issues fell for disclosure to the Authority. This is in accordance with FIT. The tax issues were relevant and significant to the Authority's real time assessment of Mr Käärmann's fitness and propriety to perform his senior manager role at WAUK, as well as perform his senior role at WPL; and

b) The tax issues also had the potential to have a significant adverse effect on the reputation of both regulated firms. Indeed, Mr Käärmann's subsequent inclusion on the Defaulters List attracted wide media attention. The tax issues therefore fell for disclosure given their relevance and significance to the Authority's ongoing supervision of WAUK and WPL, and WAUK and WPL's own notification obligations as authorised firms.

5.4 Adverse findings by another regulatory and/or statutory body, such as HMRC, which may include a significant penalty, is information of which the Authority would reasonably expect to be notified. This includes notification of any relevant context concerning the same. It is imperative therefore that individuals and firms are alert to what the Authority expects them to notify it of, and that they self-notify promptly and appropriately such matters to the Authority, or ensure that their firms make

such notifications, in line with their regulatory obligations. It is also imperative that relevant individuals give appropriate consideration to the fact that their actions may not only have an adverse reputational and/or regulatory impact on themselves, but may also have an adverse impact on their firms. During his interview with the Authority, Mr Käärmann accepted that being added to the Defaulters List, which was a direct consequence of the tax issues, brought with it reputational damage to himself, Wise (and by implication its subsidiaries, such as WAUK and WPL), as well as to the wider financial system.

5.5 FIT makes clear that the following factors are the most important when considering a person's fitness: (1) honesty, integrity and reputation; (2) competence and capability; and (3) financial soundness. Given the nature of the tax issues, such as HMRC's adverse determination and subsequent action taken by it as described above, the tax issues may have been significant to the Authority's assessment of Mr Käärmann's fitness and propriety.

5.6 Compliance with the relevant regulatory rules are ongoing obligations and high standards are expected of authorised firms, approved persons and relevant individuals at AEMIs, in particular senior personnel. CEOs for example are expected to set an example to their staff. The Authority expects regulated firms and applicable individuals to notify it of information that could have the potential of impacting the individuals' fitness and propriety and may by their nature have a significant impact on the reputation of the individual and/or their firms. This is imperative to allow the Authority to effectively supervise those it regulates and to advance its strategic and operational objectives.

5.7 However, despite being aware of the tax issues for some 7 months, Mr Käärmann failed to provide an appropriate self-notification to the Authority as an Authority-approved senior manager at WAUK during the Relevant Period. During his interview with the Authority, Mr Käärmann explained that he did not believe that he needed to inform the Authority of the tax issues because his dealings with HMRC were in his view a personal matter and therefore not relevant to WPL, WAUK or his fitness and propriety.

5.8 The Authority considers that Mr Käärmann did not properly put his mind to whether the Authority should have been notified of the tax issues, and that he should have considered his disclosure obligations more carefully. In failing to notify the

Authority of the tax issues, Mr Käärmann prevented it from assessing in real time during the Relevant Period:

a) what (if any) impact the tax issues might have in respect of the Authority's assessment of Mr Käärmann's fitness and propriety, in accordance with FIT, and in turn whether it impacted his positions at WAUK and WPL;

b) what adverse impact, if any, the tax issues may cause to WAUK and WPL, such as harm to their reputation; and

c) whether there were any steps the Authority should take pursuant to its operational objectives as a result.

5.9 Mr Käärmann should also have disclosed the tax issues to WAUK and WPL during the Relevant Period, given their potential to have an impact on Mr Käärmann's fitness and propriety, as well as have a significant adverse effect on those firms' reputation. By not doing so, no one else at WAUK and WPL was able to assess and subsequently notify the Authority of the tax issues on behalf of the firms, in accordance with the applicable notification requirements, including Principle 11 of the Authority's Principles for Businesses ("the Principles"). Principle 11 requires firms to disclose to the Authority appropriately anything relating to the firm of which the Authority would reasonably expect notice. The tax issues fell for disclosure under this requirement.

5.10 For the reasons set out in this Notice, the Authority considers that Mr Käärmann was careless, rather than deliberate or reckless, in approaching his disclosure obligations as set out in this Notice. Mr Käärmann did not appropriately consider the significance of the tax issues and whether a notification to the Authority was required, which led to his subsequent failure to notify the Authority of them. Given Mr Käärmann's experience, knowledge and senior position, he ought to have appreciated that the Authority would have reasonably expected to be notified of the tax issues, in his personal capacity as a senior manager, and on behalf of WAUK and WPL.

5.11 Further, given Mr Käärmaan's access to advice throughout the Relevant Period, he could have sought advice in relation to whether the tax issues ought to be notified to the Authority if he was in any doubt, but he failed to do this.

5.12 By reason of the facts and matters set out above, whilst approved by the Authority to perform the SMF1 and SMF3 roles at WAUK during the Relevant Period, Mr Käärmaan's conduct has fallen below the standards reasonably expected of those holding his positions and he has consequently failed to comply with SMCR 4: by failing to notify the Authority and otherwise disclose the tax issues, of which the Authority would have reasonably expected notice.

## 6 SANCTION

### Financial penalty

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

6.2 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.

6.3 The Authority has not identified any financial benefit that Mr Käärmann derived directly from his breach.

6.4 Step 1 is therefore £0.

### Step 2: the seriousness of the breach

6.5 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.

6.6 The period of Mr Käärmann's breach was from 7 February 2021 to 28 September 2021. DEPP 6.5B.2G(2) states that where the breach lasted less than 12 months, the relevant income will be that earned by the individual in the 12 months preceding the end of the breach. The Authority considers Mr Käärmann's relevant income for this period to be £207,467. 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%

6.7 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.

Nature of the breach

6.8 DEPP 6.5B.2G(9) sets out factors relating to the nature of the breach. The Authority considers the following factors are relevant:

a) As a director and a senior individual at both WAUK and WPL, Mr Käärmann held a prominent position within the electronic money industry (DEPP 6.5B.2G(9)(i));

b) As the CEO and director Mr Käärmann held a senior position in WAUK throughout the Relevant Period (DEPP 6.5B.2G(9)(k)); and

c) Mr Käärmann failed to take any steps to notify the Authority of the tax issues during the Relevant Period (DEPP 6.5B.2G(9)(n)).

Level of seriousness

6.9 DEPP 6.5B.2G(12) lists factors likely to be considered 'level 4 or 5 factors'. Of these, the Authority considers the following factors to be relevant:

a) Mr Käärmann held a prominent position within the industry (DEPP 6.5B.2G(12)(f)).

6.10 DEPP 6.5B.2G(13) lists factors likely to be considered 'level 1, 2 or 3 factors'. Of these, the Authority considers the following factors to be relevant:

a) The breach was committed negligently rather than deliberately or recklessly (DEPP 6.5B.2G(13)(d)); and

b) Little, or no, profits were made or losses avoided as a result of the breach in this Notice, either directly or indirectly (DEPP 6.5B.2G(13)(a)).

6.11 Taking all of these factors into account, the Authority considers the seriousness of the breach to be level 3 and so the Step 2 figure is 20% of £207,467.

6.12 Step 2 is therefore £41,493.

**Step 3: mitigating and aggravating factors**

6.13 Pursuant to DEPP 6.5B.3G(2), 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.

6.14 The Authority has not identified any such factors.

6.15 Step 3 is therefore £41,493.

**Step 4: adjustment for deterrence**

6.16 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.

6.17 The Authority considers the following circumstances to be relevant when considering an adjustment under Step 4:

a) The absolute value of the penalty is too small and unlikely to meet its objective of credible deterrence, namely, to deter Mr Käärmann and/or others who hold similar positions from committing similar or further breaches (DEPP 6.5B.4G(1)(a));

b) It is imperative that individuals are alert to what the Authority expects them to disclose to it and that they self-notify promptly such matters to the Authority, or ensure that their firms make such notifications in line with their regulatory obligations to enable the Authority to supervise effectively those it regulates (DEPP 6.5B.4G(1)(d)); and

c) Mr Käärmann is a high-net worth individual and a penalty based on his relevant income alone will not act as a sufficient deterrent (DEPP 6.5B.4G(1)(e)).

6.18 The Authority therefore considers that in order to achieve credible deterrence the Step 3 figure should be increased to £500,000.

6.19 Step 4 is therefore £500,000.

**Step 5: settlement discount**

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

6.21 The Authority and Mr Käärmann reached agreement at Stage 1 of the settlement process and so a 30% discount applies to the Step 4 figure.

6.22 Step 5 is therefore £350,000.

**Penalty**

6.23 The Authority hereby imposes a total financial penalty of £350,000 on Mr Käärmann for failing to comply with SMCR 4 as SMF1 (Chief Executive) and SMF3 (Executive Director) at WAUK.

## 7 PROCEDURAL MATTERS

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

7.2 The following statutory rights are important.

**Decision maker**

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

**Manner and time for payment**

7.4 The financial penalty must be paid in full by Mr Käärmann to the Authority no later than 11 November 2024.

**If the financial penalty is not paid**

7.5 If all or any of the financial penalty is outstanding on 12 November 2024, the Authority may recover the outstanding amount as a debt owed by Mr Käärmann and due to the Authority.

**Publicity**

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

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

**Authority contacts**

7.8 For more information concerning this matter generally, contact Jeremy Parkinson at the Authority (direct line: 020 7066 0224 / email: Jeremy.Parkinson@fca.org.uk).

Alison Walters
Head of Department
Financial Conduct Authority, Enforcement and Market Oversight Division

## ANNEX A

## RELEVANT STATUTORY AND REGULATORY PROVISIONS

### RELEVANT STATUTORY PROVISIONS

1.1 The Authority's statutory objectives are set out in section 1(B)(3) of the Act and include the operational objective of enhancing the integrity of the UK financial system (set out in section 1D of the Act).

1.2 Section 66 of the Act provides that the Authority may take action against a person if it appears to the Authority that the person is guilty of misconduct and the Authority is satisfied that it is appropriate in all the circumstances to take action against him. Section 66A of the Act provides that for the purposes of action by the Authority under section 66, a person is guilty of misconduct if any of conditions A to C is met in relation to the person. Section 66A(2) provides that, under Condition A, a person is guilty of misconduct if, while an approved person, he has failed to comply with rules made by the Authority issued under section 64 of the Act.

1.3 Section 66(3)(b) of the Act provides that if the Authority is entitled to take action against a person under section 66, it may impose a penalty on that person for such sum as it considers appropriate and publish a statement of their misconduct.

### RELEVANT REGULATORY PROVISIONS

Senior Manager Conduct Rules for Approval Persons

1.4 The Code of Conduct Sourcebook ("COCON") was issued under section 64A of the Act. COCON sets out the Authority's Senior Manager Conduct Rules, which are the fundamental obligations for senior manager approved persons under the regulatory system. The relevant Senior Manager Conduct Rule is as follows:

Senior Manager Conduct Rule 4 is set out at COCON 2.2.4R – *"You must disclose appropriately any information of which the FCA… would reasonably expect notice".*

Principles for Businesses ("the Principles")

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

Principle 11 provides: *"A firm must deal with its regulators in an open and cooperative way, and must disclose to the FCA appropriately anything relating to the firm of which that regulator would reasonably expect notice".*

Decision Procedures and Penalties Manual ("DEPP")

1.5 Chapter 6 of DEPP, which forms part of the Handbook, sets out the Authority's statement of policy with respect to the imposition and amount of financial penalties under the Act. In particular, DEPP 6.5B sets out the five steps for penalties imposed on individuals in a non-market abuse case.

The Enforcement Guide ("EG")

1.6 The Enforcement Guide sets out the Authority's approach to exercising its main enforcement powers under the Act. Chapter 7 of the Enforcement Guide sets out the Authority's approach to exercising its power to impose a financial penalty. .

The Fit and Proper Guidance ("FIT")

1.7 FIT sets out the factors that are the most important to the Authority when considering a person's fitness. These factors include:

a) FIT 2.1 – A person's honesty, integrity and reputation;

b) FIT 2.2 – A person's competence and capability; and

c) FIT 2.3 – A person's financial soundness

1.8 FIT 2.1 sets out non-exhaustive matters that the Authority will consider when assessing honesty, integrity and reputation. Pursuant to FIT 2.1.3G, such matters include but are not limited to:

2) "*any adverse finding… particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate*";

3) "*whether the person has been the subject of,…any existing or previous investigation or disciplinary proceedings, by …government bodies or agencies";*

4) "*whether the person has been the subject of any proceedings of a disciplinary nature… or has been notified of any potential proceedings or of any investigation which might lead to those proceedings";*

5) "*whether the person has contravened any of the requirements of.… government bodies or agencies"; and*

*10) "whether the person has been investigated, disciplined…or criticised by a regulatory… body,…whether publicly or privately"*