

To: **Woodward's Independent Financial Advisers**  
Of: 7-9 Nottingham Road, RIPLEY, Derbyshire, DE5 3DJ  
Date: 4 April 2002

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## FINAL NOTICE

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**TAKE NOTICE: The Financial Services Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS ("FSA") gives you final notice about the following matters:-**

- (1) a requirement to pay a financial penalty; and
- (2) variation of your Part IV permission so as to impose a requirement that you appoint external consultants.

### **THE INTERIM TRIBUNAL**

The Notice of Intended Order of the Disciplinary Committee of the Personal Investment Authority ("PIA") which was issued on 1 November 2001 was referred by you to the PIA Membership and Disciplinary Tribunal. Those proceedings were incomplete disciplinary proceedings at 1 December 2001 and were referred by FSA to the Financial Services and Markets Act Interim Tribunal. In accordance with the directions given by the Interim Tribunal the FSA is taking the following action:-

#### **1. THE PENALTY**

- 1.1 The FSA imposes a financial penalty on you in the amount of £5,000 ("the Penalty").

#### **2. THE REQUIREMENT TO APPOINT EXTERNAL CONSULTANTS**

- 2.1 The FSA varies your Part IV permission so as to impose a requirement that you appoint external consultants in accordance with the terms set out below:-

- (a) You are required to appoint at your own expense appropriate external consultants (FSA to be content with the qualifications, experience and other resources of the consultants and with their terms of reference having regard to the scale and nature of services to be provided in advance of the appointment) to provide the following services in respect of the review of your past pension transfer and opt-out business in accordance with the standards and specifications prescribed by SIB and PIA for the review of past pension transfer, opt-out and non-joiner business (as designated by FSA under Article 3 of the Financial Services and Markets Act 2000 (Transitional Provisions) (Review of Pensions Business) Order 2001) ("the Guidance"):
  - (i) to give guidance and assistance on the population identification, compliance assessment and, if necessary, the causation assessment stages of the pensions review;
  - (ii) to carry out a health check visit in relation to the population identification and compliance stages of the pensions review;
  - (iii) undertake the loss calculations in respect of the loss assessment stage of the pensions review; and
- (b) You are required to provide FSA with details of recommendations made by the external consultants immediately such recommendations are made and, subject to them being approved in advance by FSA, to comply with those recommendations; and
- (c) Where it is identified that redress is due to an investor, you are required to make redress in accordance with the Guidance; and
- (d) You are required to provide FSA with monthly progress reports in a form agreed with FSA in respect of the services provided by the external consultants.

## **REASONS FOR THE PENALTY & THE REQUIREMENT TO APPOINT EXTERNAL CONSULTANTS**

### **Summary**

Woodward's Independent Financial Advisers ("the Firm") is an independent financial adviser, which has been authorised by PIA to conduct investment business since 10 October 1994. The penalty and the requirement to appoint external consultants are imposed in respect of the compliance failures detailed below which arose in relation to the Firm's failures to conduct its pension's review in accordance with PIA Guidance.

## **Relevant Statutory and other Provisions**

### **The Penalty**

The penalty arises as a result of your failure to comply with PIA Rule 7.2.2(3) as particularised below.

The penalty is imposed under S.206 of the Financial Services and Markets Act 2000 ("the Act").

In imposing the penalty, FSA is exercising its power under S.206 of the Act in order to give effect to and implement the determination and directions of the Interim Tribunal pursuant to Article 58(4) of the Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001 ("the PCP Order").

Therefore, in accordance with Article 61(5) of the PCP Order, Sections 207 and 208 of the Act do not apply to this Notice.

### **The Requirement to Appoint External Consultants**

The requirement to appoint external consultants arises as a result of your failure to comply with PIA Rule 7.2.2(3) as particularised below.

The FSA is exercising its powers under section 45 of the Act to vary the Firm's Part IV permission so as to impose requirements pursuant to section 43 of the Act.

In imposing the requirement to appoint external consultants, FSA is exercising its power under S.45 of the Act in order to give effect to and implement the determination and directions of the Interim Tribunal pursuant to Article 58(4) of the PCP Order.

Therefore, in accordance with Article 61(1) of the PCP Order, Sections 53, 54 and 55 of the Act do not apply to this Notice.

## **Relevant Guidance**

In deciding to impose the penalty and to impose a requirement to appoint external consultants in reliance upon the facts and matters described herein and in accordance with the provisions of Article 60(3) of the PCP Order, the FSA has had regard to the guidance published in Annex D of "PIA's Approach to Discipline - Statement of Policy" (December 1995). The following paragraphs in particular are relevant for the reasons stated:

- (3) *Paragraph 3 a (i)* -The breaches may have exposed clients to actual or potential harm by not identifying correctly its starting population and by incorrectly excluding clients from the review, clients may not have received compensation even though they were entitled;
- (4) *Paragraph 3 a (iii)* - The breaches were not thought to be indicative of an overall systemic failing at the Firm and were not indicative of the Firm's compliance systems as a whole;

- (5) *Paragraph 3 a (iv)* – The Firm intentionally or recklessly failed to meet PIA’s requirements in that the Firm issued inappropriate letters to its clients, giving premature reassurance, before Phase 1 Mailings, that their transaction was compliant;
- (6) *Paragraph 3 a (vii)* - The Firm potentially gained significant benefit from failing to identify its starting population, its incorrect exclusion of cases from the review and failure to carry out compliance and loss assessments may have led to the Firm to avoid payment of compensation to clients;
- (7) *Paragraph 3 b (i)* – The breaches were not reported by the Firm. The breaches were initially identified by PRMD at their monitoring visit in February 2000. Further breaches were found by PRMD at their verification visit in July 2000;
- (8) *Paragraph 3 b (ii)* – In a letter to PRMD dated 15 September 2000 the Firm advised that it had contacted PASS and were in negotiation with companies who offer support and advice in respect of pensions review. In a letter to PRMD dated 16 November 2000 the Firm stated that it had signed up on the Assisted Support Services of Bankhall’s and Portfolio Members Services Limited who would be looking at the Firm’s processes and providing assistance with a number of cases;
- (9) *Paragraph 3 b (iv)* – As at 14 September 2001 the Firm had not completed all of the corrective action required by PRMD as set out in the Monitoring Visit report and the Verification Visit report. PRMD had given the Firm a deadline of 20 February 2001 to complete all of the corrective action; and
- (10) *Paragraph 3 c (i) and (ii)* – Searches have not revealed any past disciplinary action taken against the Firm. Searches have not revealed any previous warnings issued to the Firm.

### **Facts And Matters Relied On**

The FSA considers that Woodward’s Independent Financial Advisers failed to comply with Rule 7.2.2(3) as follows :

- (a) the Firm failed to identify its starting population accurately;
- (b) the Firm incorrectly excluded cases from the Pensions Review;
- (c) the Firm mailed inappropriate letters to clients which may have discouraged them from requesting a review. In fact, only 3% of the Firm’s clients requested a review compared to an industry average of 45%;
- (d) the Firm failed to process a case in accordance with the Guidance;
- (e) the Firm failed to complete cases by the December 1998 deadline; and

- (f) the Firm failed to gather sufficient information and failed to conduct adequate compliance and loss assessments.

#### **MANNER OF PAYMENT OF THE PENALTY**

The Penalty must be paid to the FSA in full.

#### **TIME FOR PAYMENT OF THE PENALTY**

The Penalty must be paid to the FSA no later than 22 April 2002, being not less than 14 days beginning with the date on which this notice is given to you.

#### **IF PENALTY NOT PAID**

If all or any of the Penalty is outstanding on 22 April 2002, the FSA may recover the outstanding amount as a debt owed by you and due to the FSA.

#### **YOUR RIGHTS**

This notice is sent to you in accordance with section 390(5) of the Act.

#### **PUBLICATION**

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 FSA must publish such information about the matter to which this notice relates as the FSA considers appropriate. The information may be published in such manner as the FSA considers appropriate. However, the FSA may not publish information if such publication would, in the opinion of the FSA, be unfair to you or prejudicial to the interests of consumers.

The FSA intends to publish a press release reflecting the terms of this Notice.

For more information concerning this matter generally, please contact Felicity Rowan at the FSA (direct line: 020 7676 1424 /fax: 020 7676 1425).

**Martin Cole**  
Manager

4 April 2002