DRN-3718423

The complaint

Miss G has complained, with the help of a professional third party, about the transfer of her Zurich Assurance Ltd ('Zurich') personal pension to a small self-administered scheme ("SSAS") in 2014. Miss G's SSAS was subsequently used to invest in an overseas property development with The Resort Group ('TRG'). The investment now appears to have little value. Miss G says she has lost out financially as a result.

Miss G says Zurich failed in its responsibilities when dealing with the transfer request. She says that it should have done more to warn her of the potential dangers of transferring, and undertaken greater due diligence on the transfer, in line with the guidance she says was required of transferring schemes at the time. Miss G says she wouldn't have transferred, and therefore wouldn't have put her pension savings at risk, if Zurich had acted as it should have done.

In addition to the transfer of pension benefits from Zurich, Miss G also transferred pension benefits from two other providers at around the same time, and has lodged separate complaints with our service about those transfers. The circumstances of one of those transfers, from a business which I'll call 'Firm A', have relevance to her complaint about Zurich and so I've referred to them below.

What happened

On 18 February 2014, Miss G signed a letter of authority ('LOA') giving her pension providers, including Zurich and Firm A, permission to share details and transfer documents in relation to her pensions with two businesses. These were First Review Pension Services ('FRPS') and 'Moneywise' (which was Moneywise Financial Advisors Limited). Moneywise was regulated by the Financial Conduct Authority ('FCA'). But FRPS was not. The LOA was on FRPS headed paper. This was sent to Zurich via fax on 5 March 2014. The covering sheet again was on FRPS headed paper but referred to Moneywise's FCA registration number.

Zurich replied to FRPS on 8 March 2014, with the requested information. I can see Firm A also replied directly to FRPS on 13 March 2014, providing its relevant transfer information.

On 27 May 2014, a company was incorporated with Miss G as director. I'll refer to this company as P Ltd.

On 28 May 2014, Broadwood Assets Limited ('Broadwood') wrote to Miss G. The letter said it understood she was considering appropriate investments for her newly established SSAS for which she'd be sole trustee and member. And it understood she was considering an investment into an overseas commercial property in Cape Verde through TRG. The letter said Miss G, as trustee, was required to take advice under section 36 of the Pensions Act 1995 and had appointed Broadwood to provide that advice. It went on to say the advice was only given to Miss G in her capacity as the trustee of the SSAS. And Broadwood said the advice was only on the potential suitability of the TRG investment "*both as a specific example of an overseas commercial property investment, and more generally as an investment to be held within a SSAS"*. Broadwood said it had not advised on the establishment of the SSAS, was not providing advice that would be deemed regulated - as Broadwood was not regulated or authorised by the FCA – and wasn't advising on whether the TRG investment was *"suitable for the particular needs and objectives of the members of beneficiaries of the SSAS"*.

At the start of June 2014, Miss G's identification documents were witnessed and certified by a representative of FRPS. Shortly after this Miss G signed documents, including a trust deed, to open a SSAS. The trust deed was witnessed by the same representative of FRPS that certified Miss G's ID documents. P Ltd was recorded as the SSAS's principal employer and Cantwell Grove Limited ('CGL') was recorded as the administrator. CGL was not subject to regulation by the FCA. HMRC sent a letter to CGL confirming that the SSAS had been registered with it on 17 June 2014.

On 25 June 2014, CGL wrote to Zurich enclosing transfer paperwork. The covering letter said CGL was aware of concerns around 'pension liberation', it supported the efforts of the pension industry and that its business model, as a pensions administrator, had been vetted by HMRC. It also said CGL supported the 'Scorpion' campaign of The Pension Regulator ('TPR'), had spoken to Miss G and confirmed no cash incentive or other inducements had been offered and she was not accessing pension benefits before age 55. And it said that the 'Scorpion' information leaflet had been shared with Miss G.

CGL said it enclosed completed application forms for the transfer, a confirmation letter from Miss G, copies of the scheme trust deed and rules, the HMRC registration confirmation and a scheme details Q&A document which gave answers to some general questions, including which investments were under consideration.

The Q&A document said that the investments under consideration were a commercial property investment provided by TRG and a discretionary fund management service. The document said that appropriate advice was being taken by the trustees of the SSAS from Sequence Financial Management Limited (SFML'). SFML was registered and authorised by the FCA. I'd note though there is no evidence that SFML did in fact provide any advice to Miss G. And indeed, the advice referenced had already been provided by Broadwood.

The confirmation letter which CGL referenced was signed by Miss G. This letter said she was aware there had been a rise in cases of pension liberation fraud and she was aware of the issues relating to this. The letter said Miss G wanted to confirm she was requesting a transfer to take advantage of investment opportunities, none of which were connected with pension liberation. And it stated she was not seeking to access her pension before age 55 and had not been offered a cash or other incentive to transfer.

Firm A wrote to Miss G on 27 June 2024. It said it had received the instruction to transfer but required her to complete a discharge and indemnity form before it agreed to proceed. The covering letter said Firm A *"strongly recommends that you take independent advice from an adviser regulated by the Financial Conduct Authority before proceeding…".* It also said Miss G should note any potential advantages of a transfer were often outweighed by the costs, which an independent adviser could point out and she shouldn't go ahead unless she fully understood the nature of the proposed investments and that they were appropriate to her attitude to risk. It also said she should consider how liquid the investments were, that by transferring she may lose regulatory protection and if she wasn't sure about what the terms of the discharge and indemnity form meant for her, she should seek legal advice.

The discharge and indemnity form confirmed that Miss G requested the transfer. It also said that she accepted that if she was not sure whether making the transfer to the SSAS, making investments under the SSAS including *"any non-regulated investments such as an investment in a hotel room in Cape Verde"* or giving up the benefits under the existing scheme was right for her, she should take independent financial advice. And she understood that Firm A recommended taking such advice and if she chose not to that was her decision. Lastly it confirmed that, if HMRC deemed the transfer not to be a recognised transfer, she'd indemnify the scheme administrator against those charges and be liable to pay them.

On 30 June 2014, Zurich wrote to Miss G. The letter said that before considering the request further, Zurich wanted to ensure she wasn't being misled. It said that the Scorpion leaflet was enclosed, and the Scorpion campaign logo was present on the letter itself. The letter summarised that pension benefits couldn't be accessed before age 55 and to protect customers Zurich wouldn't transfer pensions to a receiving scheme where it believed the payment would be treated as unauthorised. It said the potential consequences of transferring to a pension liberation arrangement included significant tax penalties, high charges, fees or commission, lower income at retirement and the fund *"may be invested in assets that are often high risk, located overseas and may not be subject to regulatory controls*". Zurich said Miss G should read the Scorpion insert and, if she hadn't already done so, it recommended she seek advice from an *"appropriately qualified UK regulated financial adviser"*. It concluded by saying that if, after reading the letter and Scorpion insert, Miss G still wanted to proceed, she needed to sign a form that was enclosed.

I've seen a copy of a letter, signed by Miss G on 24 July 2014, to CGL. This said she was confirming, in her capacity as trustee, she'd considered Broadwood's advice and wished to proceed with an investment "*in the Cape Verde investment opportunity*" offered by TRG.

Miss G signed the form Zurich sent her on 4 August 2014.

Miss G then signed the disclaimer that Firm A had sent her on 15 August 2014.

Firm A confirmed to CGL that it had transferred Miss G's pension funds on 28 August 2014.

Zurich wrote to Miss G again on 9 September 2014, acknowledging receipt of her confirmation that she wished to proceed. It said it would now contact HMRC to confirm that the receiving scheme remained validly registered and that a transfer can be made. The letter explained that confirmation the transfer could be made should not be taken as an endorsement by Zurich or HMRC of the receiving scheme or product and Miss G should still carry out her own checks to satisfy herself the transfer was suitable. And it said if she had not yet been advised by a UK regulated financial adviser, Zurich recommended that she obtain such regulated advice. It included a link to a service to contact regulated advisers near to where she lived as well as a link to the FCA register so Miss G could check if a financial adviser was regulated.

Zurich confirmed to CGL on 14 October 2014 that it had transferred £35,940.75 representing the total value of Miss G's pension benefits.

I've seen evidence to show that the majority of Miss G's funds which were transferred to the SSAS were subsequently invested with TRG. Account statements indicate that those investments were providing credits to the pension bank account (returns) every few months until March 2019. I understand that those credits then ceased and there is little market for re-sale of the investment.

Miss G complained to Zurich in 2020. Briefly, her argument is that Zurich ought to have spotted, and told her about, a number of warning signs in relation to the transfer. These included (but were not limited to) the following: the SSAS and the sponsoring employer were newly registered, there wasn't a genuine employment link to the sponsoring employer, CGL not being regulated by the FCA, Miss G had been cold called and the proposed investment being unregulated, high risk and involved investment abroad. Her representative said there was not a regulated financial adviser involved and that FRPS had recommended the transfer and investment in TRG, on this basis the returns were guaranteed as they were based in "property". Miss G thought this sounded like a realistic opportunity to significantly increase her pension. But says if Zurich had properly informed her of the warning signs and the risks, she wouldn't have transferred.

Zurich didn't uphold the complaint. It said it had highlighted, and Miss G had indicated she'd understood, the transfer risks over several documents and declarations. It also had made clear that it recommended she take regulated advice, and noted that the LOA referred to Moneywise, suggesting she had access to advice if she'd wanted it. Zurich also added that Miss G had a legal right to transfer and it was satisfied it had conducted an appropriate level of due diligence given the requirements of the time.

I issued a provisional decision in October 2024 explaining that I intended to uphold Miss G's complaint. Below are extracts from my provisional findings, explaining why, which form part of my final decision.

<u>The relevant rules and guidance</u>

Personal pension providers are regulated by the Financial Conduct Authority (FCA). Prior to that they were regulated by the FCA's predecessor, the Financial Services Authority (FSA). As such Zurich was subject to the FSA/FCA Handbook, and under that to the Principles for Businesses (PRIN) and to the Conduct of Business Sourcebook (COBS). There have never been any specific FSA/FCA rules governing pension transfer requests, but the following have particular relevance here:

- *Principle 2 – A firm must conduct its business with due skill, care and diligence;*

- *Principle 6 – A firm must pay due regard to the interests of its customers and treat them fairly;*

- *Principle 7 – A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading; and*

- *COBS 2.1.1R (the client's best interests rule), which states that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.*

The Pensions Schemes Act 1993 gives a member of a personal pension scheme the right to transfer the cash equivalent value of their accrued benefits to another personal or occupational pension scheme if certain conditions are satisfied (and they may also have a right to transfer under the terms of the contract). This right came to be exploited, with people encouraged to transfer to fraudulent schemes in the expectation of receiving payments from their pension that they weren't entitled to – for instance, because they were below minimum retirement age. At various points, regulators issued bulletins warning of the dangers of taking such action. But it was only from 14 February 2013 that transferring schemes had guidance to follow that was aimed at tackling pension liberation – the "Scorpion" guidance.

The Scorpion guidance was launched by The Pensions Regulator (TPR). It was described as a cross-government initiative by Action Fraud, The City of London Police, HMRC, the Pensions Advisory Service (TPAS), TPR, the SFO, and the FSA/FCA, all of which endorsed the guidance, allowing their names and logos to appear in Scorpion materials.

When launched it was initially focused just on pension liberation – namely, the access to pension funds in an unauthorised manner (such as before normal minimum pension age). The guidance was updated on 24 July 2014 (which was after Miss G's application to transfer was made but before it completed). It widened the focus from pension liberation specifically, to pension scams – which it said were on the increase. I cover the Scorpion campaign in more detail below.

In late April 2014 the FCA had also started to voice concerns about the different types of pension arrangements that were being used to facilitate pensions scams. In an announcement to consumers entitled "Protect Your Pension Pot" the increase in the use of SIPPs and SSASs in pensions scams was highlighted, as was an increase in the use of unregulated and/or illiquid investments. The FCA further published its own factsheet for consumers in late August 2014. It highlighted the announcement to insurers and advisers in a regulatory round-up published on its website in September 2014.

<u>The Scorpion guidance</u>

The materials in the Scorpion campaign comprised:

- *An insert to be included in transfer packs (the 'Scorpion insert'). The insert warns readers about the dangers of pension scams and identifies a number of warning signs to look out for.*

- *A longer booklet issued by TPAS which gives more information, including example scenarios, about pension scams. Guidance provided by TPR said this longer leaflet was intended to be used in ongoing communications with members so that could become aware of the scam risks they were facing.*

- *An 'action pack' for scheme administrators that highlighted the warning signs present in a number of transfer examples. It suggested transferring schemes should "watch out for" various warning signs of a scam. If any of the warning signs applied, the action pack provided a check list that schemes could use to help find out more about the receiving scheme and how the member came to make the transfer request. Where a transferring scheme still had concerns, they were encouraged (amongst other things) to contact the member to establish whether they understood the type of scheme they were transferring to and – where a member insisted on transferring – directing the member to Action Fraud or TPAS.*

TPR issued the guidance under the powers at s.12 of the Pension Act 2004. Thus, for the bodies regulated by TPR, the status of the guidance was that it provided them with information, education and/or assistance, as opposed to creating any new binding rule or legal duty. Correspondingly, the communications about the launch of the guidance were predominantly expressed in terms that made its non-obligatory status clear. So, the tenor of the guidance is essentially a set of prompts and suggestions, not requirements.

The FSA's endorsement of the Scorpion guidance was relatively informal: it didn't take the form of Handbook Guidance, because it was not issued under s.139A of the Financial Services and Markets Act (FSMA), which enabled the FSA to issue guidance provided it underwent a consultation process first. Nor did it constitute "confirmed industry guidance", as can be seen by consulting the list of all such FSA/FCA guidance on its website.

I take from the above that the contents of the Scorpion guidance was essentially informational and advisory in nature and that deviating from it doesn't necessarily mean a firm has broken the Principles or COBS rules. Firms were able to take a proportionate approach to transfer requests, balancing consumer protection with the need to also execute a transfer promptly and in line with a member's rights.

That said, the launch of the Scorpion guidance was an important moment in so far it provided, for the first time, guidance for personal pension providers dealing with transfer requests – guidance that prompted providers to take a more active role in assessing transfer requests. The guidance was launched in response to widespread abuses that were causing pension scheme members to suffer significant losses. And the guidance's specific purpose was to inform and help ceding firms when they dealt with transfer requests in order to prevent these abuses and save their customers from falling victim to them.

In those circumstances, I consider firms which received pension transfer requests needed to pay regard to the contents of the Scorpion guidance as a matter of good industry practice. It means February 2013 marks an inflection point in terms of what was expected of personal pension providers dealing with transfer requests as a matter of fulfilling their duties under the regulator's Principles and COBS 2.1.1R.

<u>What did personal pension providers need to do?</u>

For the reasons given above, I don't think personal pension providers necessarily had to follow all aspects of the Scorpion guidance in every transfer request. However, I do think they should have paid heed to the information it contained. In deciding how to apply the guidance, they needed to consider the guidance as a whole, including the various warning signs to which it drew attention, the case studies that highlighted different types of scam, and the checklist and various suggested actions ceding schemes might take. And where the recommendations in the guidance applied, absent a good reason to the contrary, it would normally have been reasonable, and in my view good industry practice, for pension providers at least to follow the substance of those recommendations:

1. *As a first step, a ceding scheme needed to check whether the receiving scheme was validly registered.*

2. *The Scorpion insert provided an important safeguard for transferring members, allowing them to consider for themselves the scam threat they were facing. Sending it to customers asking to transfer their pensions was also a simple and inexpensive step for pension firms to take and one that wouldn't have got in the way of efficiently dealing with transfer requests. So, all things considered, I think the Scorpion insert should have been sent as a matter of good industry practice with transfer packs and direct to the transferring member when the request for the transfer pack had come from a different party.*

3. *I also think it would be fair and reasonable for personal pension providers – operating with the regulator's Principles and COBS 2.1.1R in mind – to ensure the warnings contained in the Scorpion insert were provided in some form to a member before a transfer even if the transfer process didn't involve the sending of transfer packs.*

4. *The Scorpion guidance asked firms to look out for the tell-tale signs of scams and undertake further due diligence and take appropriate action where it was apparent their client might be at risk. The guidance points to the warning signs transferring schemes should have been looking out for and provides a framework for any due diligence and follow-up actions. Therefore, whilst using the action pack wasn't an inflexible requirement, it did represent a reasonable benchmark for the level of care expected of transferring schemes and identified specific steps that would be appropriate for them to take, if the circumstances demanded.*

5. *The considerations of regulated firms didn't start and end with the Scorpion guidance. If a personal pension provider had good reason to think the transferring member was being scammed – even if the suspected scam didn't involve anything specifically referred to in the Scorpion guidance – then its general duties to its customer as an authorised financial services provider would come into play and it would have needed to act. Ignoring clear signs of a scam, if they came to a firm's attention, or should have done so, would almost certainly breach the regulator's principles and COBS 2.1.1R.*

<u>*The circumstances surrounding the transfer – what does the evidence suggest happened?*</u>

Miss G says she was cold called about a review of her pension, with a view to increasing her returns. Miss G believes the person she spoke to worked for FRPS. She agreed to a review, as she says she'd been thinking about whether it might be worthwhile consolidating her pensions. And a meeting was subsequently arranged at her home, which she says was also with FRPS. However, in one of her other complaints, she said she thought this meeting was with Broadwood.

Miss G says the person she met recommended that she transferred her pensions into the SSAS and invest in TRG. She says she was told the returns were guaranteed as they were in property, and this sounded to her like a realistic opportunity to gain significant increases on her pension savings. She says the adviser didn't make it clear they were not FCA authorised. In one of her other complaints, Miss G says she was told that the returns would be between 5-6%.

The LOA that Miss G signed was on FRPS headed paper and gave authority to FRPS and Moneywise. As I've said, it was FRPS that sent this to Zurich. And Zurich appears to have only replied to FRPS. The forms it sent to FRPS were returned by CGL. So were likely sent on by FRPS. I also note that a representative of FRPS witnessed several documents during the application process, several months after the LOA was signed. Based on this I think it likely was FRPS that Miss G was first in contact with, and it appears to have remained involved throughout the application process, and certainly to the point of the SSAS being established with CGL. And, although named in the LOA, I haven't seen anything to suggest that Moneywise was actually involved or provided any advice to Miss G.

Broadwood was involved and provided Ms G with written advice. But the letter explained that this was limited to being in her capacity as a trustee. And based on when documents were witnessed by FRPS, which appears likely to have been during the meeting, this seems to be at a different time to when Broadwood was involved. So, on balance, I don't think the person she met with was from Broadwood, although ultimately Broadwood was also not FCA regulated.

Miss G has said that it was the promise of earning greater returns that persuaded her to transfer. I've not seen anything to suggest Miss G had a lot of experience of pensions and investments. And I also haven't seen anything about her circumstances or what she's said that leads me to think she'd likely have embarked on such a complicated arrangement on her own – setting up a new company, opening a SSAS, transferring her existing pension and investing overseas. So, I think it likely was the promise of better returns that persuaded her to transfer.

What she's said she was told – that she'd receive far better returns by transferring – seems to have represented comparing the prospective benefits of the two schemes and suggesting the new scheme was more beneficial. I think this represented advice to transfer. I think it was this advice that was the catalyst for the transfer and that FRPS provided this advice. This is because, as I've explained, it seems to have been the party in contact with Miss G until the SSAS was set up. The documents indicate the SSAS was only established to facilitate the investment in TRG and the Broadwood letter suggests this had been discussed prior to the SSAS being applied for. So, I think it was likely FRPS that recommended this investment and that Miss G transfer her pension in order to invest in it.

I think what Miss G has said about the investment now having little value is also likely to be correct. As I've noted, I understand returns from the investment to the pension have stopped. And from what we know about investments through TRG from other complaints we've seen, I think there is unlikely to be any real market for re-sale of the investment unit and the investments are now largely illiquid.

<u>What did Zurich do and was it enough?</u>

The Scorpion insert:

For the reasons given above, my view is that personal pension providers should, as a matter of course, have sent transferring members the Scorpion insert or given them substantially the same information.

Zurich's letter to Miss G on 30 June 2014 refers to the Scorpion insert being included. Looking at the contents of that letter, which repeated a lot of the relevant warnings and bore the Scorpion logo, I think it is likely that the Scorpion insert was included. Given the timing of that letter, the insert included would have been the February 2013 version. This focussed on pension liberation and said, amongst other things, that financial advisers should be regulated by the FCA and consumers should find out about their background online, consumers could contact TPAS for impartial information and guidance and speak to Action Fraud if someone thought they'd been made an offer to liberate.

The letter Miss G signed as part of the transfer application, giving her reasons for transferring and confirming these did not involve pension liberation, also indicated that she'd been made aware of the risks the Scorpion insert, at that time, sought to warn her about.

I don't think Zurich needed to send another leaflet to Miss G when the July 2014 update to the Scorpion guidance was released. By that point an application to transfer had been received and Zurich was considering this. But I do think Zurich should have taken the updated guidance into account when reviewing the application to transfer given the process was still ongoing and didn't complete until October 2014.

Due diligence:

In light of the Scorpion guidance, I think firms ought to have been on the look-out for the tell-tale signs of a pension scam and needed to undertake further due diligence and take appropriate action if it was apparent their customer might be at risk.

Given the information Zurich had when it received the transfer request, one feature of Miss G's transfer would have been a potential warning sign of a scam based on the Scorpion guidance at that point. And that was that the SSAS had been recently registered. By the time of the transfer request the FCA had also started to voice concerns about the increased use of SSAS's in pension scams.

The focus of the Scorpion guidance at that point was pension liberation – being vigilant for the risks of this and warning customers about it. Zurich had a letter signed by Miss G confirming that she was aware of the rise in pension liberation, had carefully considered the request to transfer and decided she wanted to proceed for the investment opportunities this provided. The letter also stated she was aware of the risks of pension liberation and confirmed that she wasn't planning to access her pension before age 55. This letter appears to have been pre-prepared for Miss G to complete. But it is only a page long and expresses that Miss G is aware of what pension liberation is and that she wasn't planning to access her pension early. And I don't think it would have been unreasonable for Zurich to have believed Miss G had read and understood this letter before signing it. Or for it to have taken the declaration at face value. So, at that stage, I think Zurich could have been reasonably assured that Miss G was not at risk of a pension liberation scam.

However, as I've mentioned, the Scorpion guidance was updated in July 2014, and broadened to consider scams more generally. The transfer of Miss G's benefits had not gone through by that stage (and didn't for several months). And again, I think it would have been good practice, in that scenario, for Zurich to take this updated guidance into account. And in addition to knowing that the SSAS had only recently been registered (and the FCA was voicing concerns about SSAS's) Zurich would also have known that the transfer potentially involved investment overseas – as the Q&A document CGL sent to it explained that investment in TRG was being considered, and all of TRG's properties were overseas. Investments overseas was mentioned as a warning sign in the updated guidance as something to watch out for.

Given this, I think it would have been fair and reasonable – and good practice – for Zurich to look further into the proposed transfer and the most reasonable way of going about that would have been to turn to the check list in the action pack to structure its due diligence into the transfer.

The check list provided a series of questions to help transferring schemes assess the potential threat by finding out more about the receiving scheme and how the consumer came to make the transfer request. Some items on the check list could have been addressed by checking online resources such as Companies House and HMRC. Others would have required contacting the consumer. The check list is divided into three parts (which I've numbered for ease of reading and not because I think the check list was designed to be followed in a particular order):

1. *The nature/status of the receiving scheme*

Sample questions: Is the receiving scheme newly registered with HMRC, is it sponsored by a newly registered or dormant employer, an employer that doesn't employ the transferring member or is geographically distant from them, or is the receiving scheme connected to an unregulated investment company?

2. *Description/promotion of the scheme*

Sample questions: Do descriptions, promotional materials or adverts of the receiving scheme include the words 'loan', 'savings advance', 'cash incentive', 'bonus', 'loophole' or 'preference shares' or allude to overseas investments or unusual, creative or new investment techniques?

3. *The scheme member*

Sample questions: Has the transferring member been advised by an 'introducer', been advised by a non-regulated adviser or taken no advice? Has the member decided to transfer after receiving cold calls, unsolicited emails or text messages about their pension? Have they applied pressure to transfer as quickly as possible or been told they can access their pension before age 55?

Opposite each question, or group of questions, the check list identified actions that should help the transferring scheme establish the facts.

I don't think it would always have been necessary to follow the check list in its entirety. And I don't think an answer to any one single question on the check list would usually be conclusive in itself. A transferring scheme would therefore typically need to conduct investigations across several parts of the check list to establish whether a scam was a realistic threat. Given the information Zurich had about Miss G's transfer request, I appreciate that it could likely have ruled out the risk of liberation. But I think in this case, given the other warnings signs of a potential scam, Zurich should have addressed all three parts of the check list and contacted Miss G as part of its due diligence.

What should Zurich have found out?

Had Zurich made further enquiries about the transfer, I think it would have established that, in addition to the SSAS being newly registered, the sponsoring employer was also newly registered – information which could have been obtained from Companies House – and wasn't Miss G's employer. The paperwork already referred to a connection to an unregulated investment company – TRG and overseas investments. But Zurich would also have found that Miss G had only begun considering this after being cold called and offered a pension review – two further things the checklist warned about. Lastly, although the presentation of the LOA and initial request for a transfer pack already suggested this, I think it would have been confirmed to Zurich that Miss G had been contacted by FRPS. And I think Miss G would also have confirmed that she had been advised to transfer, and she understood FRPS gave this advice.

The check list recommends that in order to establish whether its member has been advised by a non-regulated adviser, the ceding firm should "check whether advisers are approved by the FCA at www.fca.gov.uk/register". In other words, they should consult the FCA's online register of authorised firms. Zurich should have taken that step, which is not difficult, and it would quickly have discovered that Miss G's adviser was indeed unauthorised.

Being advised by an unauthorised firm to transfer benefits from a personal pension plan would have been a breach of the general prohibition imposed by FSMA, which states no one can carry out regulated activities unless they're authorised or exempt. Anyone working in this field should have been aware that financial advisers need to be authorised to give regulated investment advice in the United Kingdom – indeed, the Scorpion guidance itself makes this point.

My view is that Zurich should have been concerned by FRPS's involvement because it pointed to a criminal breach of FSMA. On the balance of probabilities, I'm satisfied such a breach occurred here.

I do acknowledge that SFML, a regulated business, was referred to in the paperwork from CGL, in the same section that referenced the overseas investment. But this explained that SFML was providing advice under section 36 of the Pensions Act 1995 to the trustees of the scheme. Ultimately SFML didn't provide this advice, Broadwood did. But Zurich would not have been aware of that at the time.

Miss G was a trustee of the scheme. But this advice, about the appropriateness of the investments in the SSAS, which would've been given to her in her capacity as trustee, is not the same as regulated advice to a consumer, in their personal capacity, on whether a pension transfer is suitable for them. So, I don't think this ought to have alleviated concerns that the involvement of FRPS should have raised for Zurich.

What should Zurich have told Miss G – and would it have made a difference?

Had it done more thorough due diligence, there would have been a number of warnings Zurich could have given to Miss G in relation to a possible scam threat as identified by the action pack. But the most egregious oversight was Zurich's failure to uncover the threat posed by a non-regulated adviser. Its failure to do so, and failure to warn Miss G accordingly, meant it didn't meet its obligations under PRIN and COBS 2.1.1R.

With Zurich's obligations under PRIN and COBS in mind, I think it would have been appropriate for it to have informed Miss G that the business she had been advised by was unregulated and could put her pension at risk. Zurich should have said only authorised financial advisers are allowed to give advice on personal pension transfers, so she risked falling victim to illegal activity and losing regulatory protections. I don't think this would have been a disproportionate response given the scale of the potential harm Miss G was facing.

I considered the possibility that Miss G would have transferred her pension even if Zurich had done everything they should have.

I accept Zurich shared a copy of the Scorpion insert with Miss G when it wrote to her on 30 June 2014. The covering letter from Zurich also highlighted some potential consequences of transferring. Zurich's letter recommended seeking advice from an appropriately qualified adviser. Firm A's letter two days later made a similar suggestion. And Zurich repeated this in its letter on 9 September 2014, as well as providing information about how Miss G could find details of an independent adviser and how she could check the status of the business that had advised her. And Miss G didn't act on any of that.

However, having taken everything into account, I'm persuaded she likely would have listened to more specific warnings. The messages she received recommended taking regulated advice, but none of them explained that advice to transfer received from an unregulated business was illegal or the possible consequences of accepting such advice.

And I think any messages along these lines would have changed Miss G's mind about the transfer. The messages would have followed correspondence with Miss G so would have seemed to her (and indeed would have been) specific to her individual circumstances. And they would have been given in the context of Zurich raising concerns about the risk of losing pension monies as a result of untrustworthy and illegal advice. This would have made Miss G aware that there were serious risks in using an unregulated adviser and in her relying on the advice FRPS had given to her. I think the gravity of any messages along these lines would prompt most reasonable people to rethink their actions. And I'm not persuaded Miss G would have been any different. So, I consider that if Zurich had acted as it should, Miss G wouldn't have proceeded with the transfer out of her personal pension or suffered the investment losses that followed.

<u>Fair compensation</u>

I've taken into account that the courts are able to reduce a defendant's liability for negligence, where the claimant shares responsibility for the damage they've suffered. The Law Reform (Contributory Negligence) Act 1945 allows for the apportionment of liability in the case of contributory negligence. And in summary this says where a person suffers damage partly due to their own fault and partly due to the fault of another party, a claim in respect of that damage shall not be defeated because the person that suffered the damage was party at fault, but the damages recoverable shall be reduced by what the court thinks is an equitable share based on the share of responsibility / fault of the claimant.

I'm not deciding a legal claim, only a complaint. But I have given thought to whether Miss G should bear some responsibility for the losses she incurred. And I think she should here, due to her failure to act on what she should reasonably have known, contributing to the loss she suffered.

As I've explained, Zurich shared a copy of the Scorpion insert with Miss G. This said a warning sign to watch out for was being approached out of the blue over the phone – which is what Miss G has said happened to her. The leaflet mainly dealt with the risks of pension liberation and as she wasn't planning to do that these warnings might not have worried her. But it was, nonetheless, a warning from a trusted source about how she could protect herself from an inappropriate transfer. The letter explained how to find a regulated adviser and how to check if an adviser was regulated.

The covering letter from Zurich, accompanying the Scorpion insert, also highlighted potential consequences of transferring. These included risking significant tax charges, penalties and interest, being "invested in assets which are often high risk, located overseas and may not be subject to regulatory controls" and potentially having "much less (or no) income when you retire".

The letter Miss G received from Firm A on 27 June 2014 said she should make sure she fully understood the nature of the chosen investments and if they were appropriate for the amount of risk Miss G wanted to take. The discharge and indemnity form Firm A provided at the same time also said if Miss G wasn't sure the investment under the SSAS "including any non-regulated investment such as an investment in a hotel room in Cape Verde" was right for her, she should obtain independent advice.

These documents in combination referred specifically to investments in a hotel in Cape Verde and investments overseas often being high risk and not subject to regulatory controls.

The letter from Broadwood, which was dated before either Zurich or Firm A wrote to Miss G, made it clear that the property investment was overseas, was specifically in Cape Verde and involved a hotel. And she confirmed to CGL that she wanted to go ahead with an investment "in the Cape Verde investment opportunity". So, I think Miss G ought to have noticed parallels between the proposal being made to her and some of the potential concerns that were being highlighted to her.

Miss G has said she had little investment experience and when investing in property was mentioned this caused her uncertainty. She says she was reassured by the adviser, wasn't told that the investment strategy would entail risk and was told that investing in property was a safe prospect. And in fact, in one of her complaints she says she was told it was actually "risk free".

I don't doubt that Miss G likely found the adviser convincing or that she may have believed she was getting advice from a trusted source. But, although we haven't been provided the full copy of the Broadwood letter, we know from other complaints involving Broadwood that these letters were standardised and followed the same layout. And in the other letters I've seen Broadwood explained that this investment was suitable for "more adventurous" investors. So, it was not the no risk investment Miss G says she was led to believe. And that information came from a different source to the party that appears to have recommended the transfer, FRPS.

Miss G's representatives have also said she was experiencing ill health at the time and has a condition which is recognised as making reading difficult, which contributed to her trusting the adviser. However, even with limited experience, given she'd been contacted unsolicited, I don't think it'd have been unreasonable for her to think about speaking to someone else about the transaction or asking an independent party to confirm the information in the documents was as she'd understood.

I think all of the information Miss G received ought to have made her think about whether she should rely on the adviser's reassurances. And as I've explained, I'm satisfied there were several suggestions made to Miss G that she should seek independent advice and Zurich's letter of 9 September 2014 suggested how she could do so and how she could check the status of the party that had contacted her. But Miss G didn't act on this. And I think she should have. This would have been a reasonable step I'd expect someone in her position to take and would probably have led to the illegal advice being uncovered and the transfer being aborted.

So, when considering fair compensation here, I think it would be reasonable to attribute some responsibility for the loss Miss G has suffered to her own failure to act.

Essentially, I think both Zurich and Miss G should have done more during the process of the transfer to guard against the risk of a scam and that if either of them had done as they reasonably should, Miss G's losses would have been avoided. But Zurich was the professional party and dealing with members' pension transfer requests was an inherent part of operating, as it did, a regulated pensions business. So, it should have been more familiar with the risks than Miss G. In accordance with its duty under PRIN 6 and COBS 2.1.1R, Zurich should (as I have found above) have given specific warning about the likelihood Miss G had already been drawn into a scam. So, I think its failings were worse than those of Miss G. While this isn't an exact science, in the circumstances of this complaint, I propose to reduce Miss G's compensation by 30%. I think this is a fair way to account for Miss G's own contribution to the loss she's suffered.

Responses to my provisional decision

I gave both parties an opportunity to make further comments or send further information before I reached my final decision.

Miss G's representative said that they had no further comments to provide and that she was happy to accept my provisional findings.

Zurich did not accept my provisional decision. It provided a detailed response which I don't intend to reproduce in full. Rather, given the informal nature of our service, I've summarised the key points that Zurich made. In short it said I'd wrongly concluded it hadn't done sufficient due diligence and that further warnings would've changed Miss G's mind about a transfer. The key reasons it gave for this were:

- It had taken a proportionate approach based on the guidance at the time and the circumstances did not, in Zurich's view, warrant it doing more. And it didn't have any responsibility to advise Miss G.

- It was unreasonable to say that it should have done more when the Scorpion guidance was updated in July 2014, as it had been reasonably assured before this that Miss G was not the victim of a scam.

- Zurich felt it was reasonable, based on the information available to it for it to assume Miss G was taking advice from regulated businesses – as SFML and another FCA regulated business were named in the scheme Q&A document. And my view that the involvement of FRPS created a risk was based on hindsight and did not account for the requirements at the time which meant Zurich was entitled to rely on information that Miss G had engaged FCA regulated businesses and confirmed receipt of warnings.

- It made no material difference that SFML was noted as providing advice under section 36 Advice as Miss G was the sole trustee and member so the advice would have covered the same ground.

- My finding that FRPS had likely provided unregulated advice was based on hindsight and Zurich thought this was not supported by the information from the time.

- It wasn't clear why I'd reached a different opinion to our Investigator about the information that it did provide to Miss G about the risks of not getting regulated advice not being sufficient.

- Miss G had the right to transfer her pension and it didn't agree with my finding that she'd have been dissuaded from doing so by further warnings.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As our external resources explain, and Zurich is aware, I've reviewed the complaint afresh after our Investigator was unable to resolve the matter informally. And the decision represents my opinion, independent of our Investigator's view, of what is fair and reasonable in the circumstances. My opinion, and decision, has involved taking into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances. If I don't comment on or refer to everything I've been sent or that has been said this isn't meant as a discourtesy or because I haven't thought about it. Rather it is because my decision will address what I consider to be the key issues in deciding what is fair and reasonable.

As I explained in my provisional findings, businesses were able to take a proportionate approach to transfer requests, balancing consumer protection with the need to also execute a transfer promptly and in line with a member's rights. The Scorpion guidance though gave ceding businesses an important role to play in preventing consumers from falling victim to pension scams. And it asked businesses to look out for the tell-tale signs of scams and undertake further due diligence and take appropriate action.

The Scorpion guidance, at the time Zurich received Miss G's transfer request, was focused on pension liberation. Miss G had signed a letter explaining why she wanted to go ahead with the transfer, part of which declared that she understood the risks of liberation, was not seeking to release pension funds before age 55 and had not been offered an incentive to transfer. So, I don't think it would've been unreasonable for Zurich to think, at the point that transfer request was received on 25 June 2014 that the thing the Scorpion guidance warned against at that time was not happening here.

But the Scorpion guidance was updated in July 2014, and widened to cover pension scams more generally – not just the practice of pension liberation. As I said in my provisional decision, I don't think, as a matter of course, that Zurich needed to provide updated Scorpion warnings to Miss G. But I do think here, it ought to have reviewed the transfer again in light of that updated guidance.

Zurich has suggested it disagrees as the threat of a 'scam' had already been discounted. But again, what had likely been discounted was pension liberation, which was not the only thing that the updated guidance warned about. The updated action pack for businesses explained scams were on the increase and that they could take many forms. The information Zurich had pointed not only to a newly registered receiving scheme but also investments overseas – so more than one warning sign. And the FCA had begun to voice concerns about the use of SSASs being used for unregulated high-risk investments, some of which could be scams. So, I don't think the overall threat of a scam could reasonably have been discounted based on the information Zurich had.

And here, the letter that Zurich sent to Miss G on 9 September 2014 indicates it was still analysing the transfer request, after the Scorpion guidance broadened to wider scams. It noted Zurich had written to HMRC for further information within that letter. And the transfer didn't complete until over a month later.

As I've said there was more than one warning sign the Scorpion guidance warned about known to Zurich, and there were similarities to what the FCA had begun warnings about. Therefore, as I explained in my provisional findings, I think Zurich ought to have carried out further due diligence – not least given the important role the Scorpion guidance bestowed on ceding schemes. And structuring this in line with the checklist in the action pack for businesses would, in my view, have been appropriate.

I also remain of the opinion that further due diligence would likely have resulted in Zurich establishing that Miss G had been advised by an unregulated business, FRPS. And that is not just based on Miss G's testimony now and the benefit of hindsight as Zurich claims, but also the evidence from the time.

As I've explained, Miss G says she was cold called with a meeting later taking place at her home. And I've seen nothing that leads me to question this. Miss G signed a LOA, giving permission for information to be provided to FRPS and Moneywise in February 2014. On balance, the LOA was likely in respect of that initial contact about a potential transfer, so was in respect of the business she spoke to (and met with). Notwithstanding that Moneywise was based over 400 miles from where Miss G lived at the time, there is also no other indication of it being involved, other than being named on that document. Zurich only replied to FRPS. Moneywise isn't named in any of the application documents. And FRPS remained involved in the application process – witnessing documents, including the SSAS trust deed, several months after the LOA was signed. So, on balance of probabilities, I think it was FRPS that introduced Miss G to the proposal to transfer. And I think it likely advised her to transfer, based on what she's said she was told. Zurich has suggested it questions the accuracy of Miss G's testimony. But as I explained in my provisional findings, I don't think Miss G would likely have embarked on setting up a new company, a SSAS and investing overseas on her own. And, on balance of probabilities – which is what I need to decide the matter on where information is incomplete – I think it is likely she was advised to transfer.

Zurich has said it thinks it was reasonable for it to believe, given that there were FCA regulated businesses named in the documents, that Miss G was taking regulated advice. But I don't agree. As, I've explained, while Moneywise was mentioned on the LOA, Zurich seems to have only corresponded with FRPS. So, this doesn't indicate it believed Moneywise was involved, or relied on this to provide comfort.

The scheme Q&A document named two FCA registered businesses – one that provided a discretionary fund management service that was being considered as an investment and SFML which was said to be providing section 36 advice.

There was nothing in that information that indicated the businesses providing the discretionary fund manager was providing advice to Miss G. It was only mentioned in the capacity as a product provider. And so, I don't think it would've been reasonable for Zurich to assume that this business may also have advised Miss G as there was no information that suggested this.

The Q&A document is the only time that SFML was mentioned. And it is clear that its role was only to provide section 36 advice – although as I've explained, the other evidence suggests it didn't even do that. Zurich has said, because Miss G was the sole trustee, SFML being noted as only providing section 36 advice doesn't make a difference, as it would have covered the same ground as advice to her in her personal capacity. So, it was reasonable to take reassurance from SFML being noted. But I don't agree. SFML's role was clearly defined. Zurich should have known that section 36 advice, given to Miss G as trustee of the SSAS, was not regulated financial advice about the suitability for her of the proposed transfer out of her personal pension scheme in favour of the proposed new investment. CGL did not suggest she was taking advice of that kind, but only *"advice on whether the proposed investment(s) are satisfactory for the aims of the scheme".*

Therefore, while I agree Zurich was entitled to rely on the statement about the involvement of SFML, I don't think the statement should have reassured Zurich that Miss G was getting regulated financial advice, and certainly not the type of advice that Zurich – and the Scorpion guidance itself – recommended she should be getting.

Zurich has pointed to the references in the letters it sent Miss G to taking advice from an independent adviser and how to check if an adviser was regulated. But as I explained in my provisional findings, the consequences of taking advice from an unregulated business were not set out. And a message to this effect, in the knowledge that Miss G had been advised by an unregulated business – which I think Zurich should have uncovered – would in my view have carried greater weight. I think this would have been appropriate given Zurich's responsibilities under PRIN and COBS 2.1.1R. And, while I agree Zurich didn't have responsibility to advise Miss G, I don't think any such warnings would reasonably have caused it to think it was running the risk of advising her, that it was replicating the responsibilities of the receiving scheme or that it was putting in place unnecessary barriers to exit.

Zurich has also said it disagrees with my conclusion that Miss G would have acted differently if she'd been given further warnings, noting she had a right to transfer, she has acknowledged she'd already thought about potentially consolidating her pensions and was encouraged by the promise of better returns. This again is something I've had to reach my opinion on based on the balance of probabilities. And while I appreciate Zurich does not agree, I think on balance Miss G would have been dissuaded by the warnings I've talked about. While Miss G might have thought about consolidating her pensions and been influenced by the promise of better returns, I haven't seen anything to suggest she was an experienced investor. And again, I don't think she'd have embarked on this complicated arrangement without being advised to. I think she had trusted what the adviser, FRPS, had told her. But if she'd been given reason to think that FRPS was not acting in her best interests – additional warnings about unregulated advisers and the similarity between the circumstances in Miss G's transfer request and the things that TPR and the FCA were now warning about – I think she'd have chosen not to go ahead.

So, I still think if Zurich had done what I think it should fairly and reasonably have, I don't think Miss G would have transferred. And as a result, I remain of the opinion that the complaint should be upheld.

As I've previously explained, I do also think it is reasonable to attribute some responsibility to Miss G as, while I think Zurich should have done more, I think the cumulative information she received from it and Firm A ought to have prompted her to think further about the transfer. And I'm still of the opinion that reducing compensation payable to Miss G by 30% is fair in this case.

Lastly, Zurich has asked for full details of the current holdings in Miss G's SSAS and an explanation of my suggestion that the TRG investment be attributed a nil value. I'd expect up to date information about the current status of the SSAS and the holdings within it to be obtained as part of calculating redress.

On why I've suggested that the TRG investment be given a nil value, our Service has seen a significant number of other complaints where consumers have invested in TRG through SSASs and other occupational pension arrangements. In the majority of these the investments in TRG all experienced problems from 2019 onwards, with the payment of returns to the pension tending to cease at that time. And that was also the case for Miss G. We've also seen several complaints where consumers have been told it is their responsibility to attempt to sell the investment – but they have been unable to do so, and there is no recognised secondary market for re-sale of the investment. Based on this, I still consider the assumption of a nil value for the investment with TRG to be appropriate. I also said Zurich can ask Miss G for an undertaking to repay anything she might receive from the TRG investment in future. This is to avoid any overcompensation.

Putting things right

Fair compensation

My aim is that Miss G should be put as closely as possible into the position she would probably now be in if Zurich had treated her fairly, taking into account that Miss G shares responsibility for her loss.

To compensate Miss G fairly, Zurich must subtract the proportion of the actual value of the SSAS which originates from the transfer of the Zurich pension, from the notional value if the funds had remained with Zurich. If the notional value is greater than the actual value, there is a loss. Zurich must then pay 70% of that loss.

Actual value

This means the proportion of the SSAS value originating from Miss G's Zurich transfer (the "relevant proportion") at the date of my Final Decision. To arrive at this value, any amount in the SSAS bank account is to be included, but any overdue administration charges yet to be applied to the SSAS should be deducted. Miss G may be asked to give Zurich her authority to enable it to obtain this information to assist in assessing her loss, in which case I expect her to provide it promptly.

My aim is to return Miss G to the position she would have been in but for the actions of Zurich. This is complicated where an investment is illiquid (meaning it cannot be readily sold on the open market), as its value can't be determined – which, as I've explained, I consider the investment in TRG to be. And I don't think it's realistically possible for Zurich to only acquire a part of the investment from the SSAS as I'm only holding it responsible for 70% of the loss originating from a transfer in of the Zurich funds. Therefore, as part of calculating compensation:

- Zurich must give the illiquid investment a nil value as part of determining the actual value. In return Zurich may ask Miss G to provide an undertaking, to account to it for 70% of the relevant proportion of the net proceeds she may receive from those investments in future on withdrawing them from the SSAS. Zurich will need to meet any costs in drawing up the undertaking. If Zurich asks Miss G to provide this undertaking, payment of the compensation awarded may be dependent upon provision of that undertaking.

- It's also fair that Miss G should not be disadvantaged while she is unable to close down the SSAS. So, to provide certainty to all parties, if these illiquid investment(s) remain in the scheme, I think it's fair that Zurich must pay an upfront sum to Miss G equivalent to 70% of the relevant proportion of five years' worth of future administration fees at the current tariff for the SSAS, to allow a reasonable period of time for the SSAS to be closed.

Notional value

This is the value of Miss G's funds had she remained invested with Zurich up to the date of my Final Decision.

Zurich should ensure that the relevant proportion of any pension commencement lump sum or gross income payments Miss G received from the SSAS are treated as notional withdrawals from Zurich on the date(s) they were paid, so that they cease to take part in the calculation of notional value from those point(s) onwards.

Payment of compensation

I don't think it's appropriate for further compensation to be paid into the SSAS given Miss G's dissatisfaction with the outcome of the investment it facilitated.

Zurich should reinstate Miss G's original pension plan as if its value on the date of my Final Decision was equal to 70% of the amount of any loss established from the steps above (and it performs thereafter in line with the funds Miss G was invested in).

Zurich shouldn't reinstate Miss G's original plan if it would cause a breach of any HMRC pension protections or allowances – but my understanding is that it might be possible for it to reinstate a pension it formerly administered in order to rectify an administrative error that led to the transfer taking place. It is for Zurich to determine whether this is possible.

If Zurich is unable to reinstate Miss G's pension and it is open to new business, it should set up a new pension plan with a value equal to 70% of the amount of any loss on the date of my Final Decision. The new plan should have features, costs and investment choices that are as close as possible to Miss G's original pension.

If Zurich considers that the amount it pays into a new plan is treated as a member contribution, its payment may be reduced to allow for any tax relief to which Miss G is entitled based on her annual allowance and income tax position. However, Zurich's systems will need to be capable of adding any compensation which doesn't qualify for tax relief to the plan on a gross basis, so that Miss G doesn't incur an annual allowance charge. If Zurich cannot do this, then it shouldn't set up a new plan for Miss G.

If it's not possible to set up a new pension plan, Zurich must pay the amount of 70% of any loss direct to Miss G. But if this money had been in a pension, it would have provided a taxable income during retirement. Therefore compensation paid in this way should be notionally reduced to allow for the marginal rate of income tax that would likely have been paid in future when Miss G is retired. (This is an adjustment to ensure that Miss G isn't overcompensated – it's not an actual payment of tax to HMRC.)

To make this reduction, it's reasonable to assume that Miss G is likely to be a basic rate taxpayer in retirement. Zurich has questioned why I consider this reasonable. It is Miss G's likely tax rate over the course of her retirement which I'm making an assumption about here. The state pension will mean most people pay basic rate tax once other pensions are taken into consideration. Pension assets would need to be sizeable for someone to fall into the higher rate tax band in retirement. And based on what we know about Miss G's pension provisions previously held with Zurich and two other providers, her pension assets are unlikely to push her into that higher band. So, assuming a basic rate is, in my view, fair.

So, if the loss represents further 'uncrystallised' funds from which Miss G was yet to take her 25% tax-free cash, then only the remaining 75% portion would be taxed at 20%. This results in an overall reduction of 15%, which should be applied to the compensation amount if it's paid direct to her in cash.

Alternatively, if the loss represents further 'crystallised' funds from which Miss G had already taken her 25% tax-free cash, the full 20% reduction should be applied to the compensation amount if it's paid direct to her in cash.

If payment of compensation is not made within 28 days of Zurich receiving Miss G's acceptance of the Final Decision, interest must be added to the compensation at the rate of 8% per year simple from the date of the Final Decision to the date of payment.

Income tax may be payable on any interest paid. If Zurich deducts income tax from the interest, it should tell Miss G how much has been taken off. Zurich should give Miss G a tax deduction certificate in respect of interest if Miss G asks for one, so she can reclaim the tax on interest from HMRC if appropriate.

This interest is not required if Zurich is reinstating Miss G's plan for the amount of the loss – as the reinstated sum should, by definition, mirror the performance after the date of my Final Decision of the funds in which Miss G was invested. However, I expect any such reinstatement to be achieved promptly.

Details of the calculation must be provided to Miss G in a clear, simple format.

My final decision

For the reasons I've explained, I uphold this complaint and require Zurich Assurance Ltd to pay compensation to Miss G by carrying out the steps outlined in the 'putting things right' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 9 January 2025.

Ben Stoker
Ombudsman