DRN-5231926

The complaint

Mr B has complained about a transfer from his Zurich Assurance Ltd (Zurich) personal pension to a small, self-administered scheme ("SSAS") in 2014. Mr B's SSAS was subsequently used to invest in Dolphin Capital and an overseas property development – I shall refer to this as "the Scheme" throughout this decision. Mr B says both investments have failed, and he has lost out financially as a result.

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

Mr B is represented by a claims management company (CMC). For simplicity, I'll refer to all submissions made on Mr B's behalf as being from Mr B except where necessary.

What happened

Mr B has told us that in early 2014 he was cold called by a firm who told him it advised on pensions. Mr B agreed to meet with a representative of a firm his CMC has said was called Return on Capital Group Ltd (ROC) for a review of his pension to be carried out.
On 10 April 2014, Mr B signed a letter of authority allowing Only Consultancy Ltd (Only Consultancy) to obtain details, and transfer documents, in relation to his pension. On 21 April 2014, Only Consultancy wrote to Zurich, enclosing Mr B's letter of authority and information request. Zurich responded to this on 13 June 2014. Zurich says that in accordance with its standard procedures this letter would have enclosed a copy of the Pension Regulator's then current "Scorpion" insert which provided guidance on warning signs to look for to identify pension liberation scams.

Mr B has said the representative recommended he transfer his pension to a SSAS. From the paperwork completed at the time it appears the initial investment was to be in a car parking space abroad. However, Mr B eventually invested in an overseas commercial property based in France - Halcyon Retreat Golf and Spa (Halcyon) – and in loan notes offered by a German property redevelopment business – Dolphin Capital (Dolphin). He has told us the car park investment didn't go ahead because there was a time limitation on making the investment and he didn't complete the paperwork within the required time.

At the time Mr B was aged 59. He was self-employed having recently been made redundant from a previous employer. He has said he had no experience of pension schemes or investments and held no other investments or savings and he had ceased contributing to his pension due to affordability issues.

Encouraged by the high returns quoted to him by the representative Mr B agreed to make the transfer. The representative then provided him with the relevant paperwork to set up a SSAS with Rowanmoor Group Plc.

Mr B also went through the process of setting up a limited company to act as the sponsoring employer of the SSAS. He was provided with the necessary paperwork to do this by ROC who were not regulated by the Financial Conduct Authority (FCA).

Mr B's company was incorporated on 14 July 2014 with Mr B as sole director. The nature of the business on the Companies House record states it as being "dormant". The company was dissolved on 24 December 2019. It didn't provide Mr B (its sole director and shareholder) with any income and seems to have existed only to allow a SSAS to be opened.

A SSAS is a type of occupational pension, in which the members are also trustees and therefore take responsibility for operating the scheme. It's an arrangement typically intended to meet the needs of people who run their own companies, so it was an unusual arrangement for someone in Mr B's circumstances. SSASs are not regulated by the financial services regulator, the FCA. They can hold a wider range of investments and assets than many personal pensions. As an occupational pension, a SSAS must be sponsored by an employer company, hence the reason for Mr B's company being established.

On 25 July 2014 Zurich received a letter from Rowanmoor Group Plc requesting transfer details and a transfer claim form for Mr B's pension. Zurich responded to Rowanmoor on 28 July 2014 providing the required information and documents. Zurich has also said it again enclosed a copy of the "Scorpion" insert.

On 28 August 2014 Zurich received a letter from Rowanmoor Group Plc enclosing Mr B's signed authority to transfer his pension to a recently set up Rowanmoor SSAS. Included in the information was confirmation that the scheme was authorised with HMRC.

The transfer was completed on 1 September 2014 with just under £61,000 being transferred from the pension held with Zurich.

It should be noted that around the same time Mr B transferred two other pensions that he held to the same SSAS, to be invested in the same way.

In total, from the SSAS the following investments were made:
- Dolphin 7 October 2014
- Dolphin 5 February 2015
- Halcyon Retreat Golf and Spa 2 October 2015
- Dolphin 19 April 2017.

I understand that the Dolphin investment has failed. Preliminary bankruptcy proceedings were commenced in Germany in 2020 and it is unlikely that investors will get any of their money back.

The CMC has told us that the Halcyon investment has also failed.

<u>The complaint raised against Zurich</u>

In July 2020, Mr B complained to Zurich. Briefly, his argument was that Zurich ought to have spotted, and told him about, a number of warning signs in relation to the transfer, including (but not limited to) the following: the SSAS was newly registered, there wasn't a genuine employment link to the sponsoring employer, the catalyst for the transfer was an unsolicited call and he had been advised by an unregulated business.

Zurich didn't uphold the complaint. It said that it had sent Rowanmoor Group a copy of TPR's "predators stalk your pension" leaflet along with the transfer documentation on 25 July

2014 and had overall conducted the required and appropriate due diligence checks.
Mr B wasn't satisfied with this so the complaint was referred to this Service. One of our investigators assessed the complaint and said they didn't think the complaint should be upheld. She was of the view that Zurich failed to send Mr B the Scorpion insert however after having spoken to Mr B that he would still have continued with the transfer even if he had received it. Mr B still disagreed. So as the dispute couldn't be resolved informally, the matter has been passed to me to decide.

It's important to note at this stage that I have also considered Mr B's complaint about the transfer of his other personal pension from a different provider (under a separate complaint).

Mr B has also raised a complaint about the transfer of his third pension. Whilst this complaint is being dealt with by The Pensions Ombudsman (TPO) I have been provided with all the documents from the TPO.

This decision only addresses the complaint against Zurich, but I have looked carefully into the other complaints to understand whether issues within those cases affect my findings on this complaint in any material way. I am satisfied they don't, and so I'm able to issue a decision on this case having considered all the evidence available to me.

I issued a second provisional decision in September 2024 where I explained my reasons why the complaint should be upheld. And extract is set out below (in italic font) and forms part of this decision:

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

Personal pension providers are regulated by the 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 formal 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.

The guidance was updated on 24 July 2014. 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.

<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 they 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.*

In deciding on the appropriate actions to take when dealing with a transfer request, a ceding scheme needed to be mindful of the material in the Scorpion guidance in its entirety rather than treating the guidance as a series of discrete steps to be worked through in isolation. 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. 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. With that in mind, I take the view that personal pension providers dealing with transfer requests needed to heed the following:

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>

In a telephone call with the investigator who initially assessed this complaint Mr B said he had received a cold call asking him if he'd like a review of his pensions. He has said that in 2014 he had recently been made redundant and so thought it would be a good idea. He then met with an adviser who gave him an analysis of what he could earn in a new fund – 1.3% per annum more than his current pensions. He wasn't offered an incentive, but he said he did feel pressure from the adviser to make a decision and he even remembers the adviser visiting him at his work. But when he saw the paperwork showing that Rowanmoor was involved, and they were regulated he felt assured that everything was legitimate. He doesn't remember receiving the Scorpion insert and he had no idea what a SSAS was. He said he only went ahead with the transfer because the returns looked very good and everything looked legitimate so he felt there were no alarm bells.

Zurich has raised concerns about the accuracy of Mr B's recollections. It has said that the evidence shows Mr B was initially recommended to invest £54,000 in a property development called "Best Car Parks". But this didn't go ahead and instead Mr B invested in Dolphin and then in Halcyon later in October 2015. The SSAS application also refers to the investment in Best Car Parks and not Dolphin or Halcyon. But Mr B didn't mention this information in his call with the investigator nor did he detail this in his complaint submission.

I appreciate Zurich's concern but given how long ago the transfer took place its reasonable that Mr B's recollections are hazy. Naturally because of this I have treated his conversation with the investigator with caution. However I think it's likely the investment into the car park wasn't mentioned by Mr B in the call because it didn't go ahead and he just focused on giving the information about the investments he did make.

Generally I find Mr B's overall recollections plausible as it matches the account of many other investors in similar circumstances and is consistent with what we know about how the various firms went about promoting the investments into Dolphin and the processes that were carried out. I also haven't seen anything about his circumstances or anything from what he has told us that makes me think it's likely that he would have decided on his own to embark on such a complicated arrangement which involved transferring out of his existing pension, setting up a new company and opening a SSAS in non-standard investments. So I find it plausible that Mr B was ultimately recommended to invest into Dolphin and Halcyon by one firm (the same one that proposed the first investment which didn't come to fruition) via a newly arranged SSAS, which came about from an unsolicited telephone call to him. And I have considered the documented evidence of what Zurich did and didn't do as part of the transfer process.

<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 has provided the letter it sent to Only Consultancy dated 13 June 2014 which refers to the inclusion of the Scorpion insert – the one entitled Predators Stalk Your Pension. That's the one from 2013 which was the correct one to send at that point in time.

Zurich has also said that it enclosed the "Predators Stalk Your Pension" insert in the *information it sent to Rowanmoor. There is a lack of evidence that the insert was sent to Rowanmoor because there is no reference to it in any of the letters. However, I will accept that in this complaint the insert was sent to Rowanmoor and/or Only Consultancy as I don't think it makes a difference to the overall outcome of this decision.*

Zurich sending the insert to Only Consultancy and Rowanmoor rather than directly to Mr B is my main concern. TPR stated in its guidance "We would also like to see the use of the pension liberation fraud insert in transfer packs for members become best practice". While I appreciate this doesn't state the insert should be sent to the member, given it was aimed at the transferring members it seems logical that the insert should have been sent directly by Zurich to Mr B. Furthermore, the purpose of the guidance was for ceding schemes to warn the transferring member directly of any potential risks of a scam. So sending the insert directly to their customer was an easy and efficient step that could be easily carried out by Zurich. This also ensured that the warnings were actually received by the transferring member because I don't think it was reasonable for Zurich to rely on a third party to pass on these warnings to Mr B.

So in conclusion, I think Zurich failed in its duties to send Mr B the Scorpion insert directly which it should have done.

I have also considered whether Mr B received the insert directly in the process of transferring his other pensions, mentioned above. But I have found that for the transfer of Mr B's second personal pension held with a different provider he didn't receive the insert or any additional information highlighting the risks of transferring or anything that referred to pension liberation or pension scams. And for the transfer of the pension being considered by TPO, the information I have indicates that this particular ceding scheme did provide pension transfer warnings and relevant links and references to the FCA, TPR and TPAS. It referred to pension liberation or "trust busting", mentioned tax bills could be charged by HMRC and also said that if the transfer is overseas "we recommend you seek expert advice on the tax rules in the country the receiving scheme is based". However, this was contained in a letter dated 13 September 2014 which was after the date of the completion of this transfer and these warnings related to pension liberation which, from what I've seen, wasn't Mr B's intention, and so I don't think they would have resonated with him.

So overall I'm satisfied he didn't receive any warnings relating to wider pension scams beyond pension liberation from another provider.

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.

From what it's told us, Zurich's due diligence focused on Rowanmoor's standing in the industry, and the SSAS's HMRC registration. Rowanmoor Trustees Limited also had legal and fiduciary duties as a professional trustee. There's an argument, therefore, that Zurich could have taken comfort from this. However, I disagree.

The Scorpion guidance gave ceding schemes an important role to play in protecting customers wanting to transfer a pension. It would defeat the purpose of the Scorpion guidance for a ceding scheme to have delegated that role to a different business – especially one that had a vested interest in the transfer proceeding. An important aspect in this is the fact that there is little regulatory oversight of single-member SSASs; they don't have to be registered with TPR. In the absence of that oversight Zurich was assuming, in effect, that Rowanmoor would want to maintain its standing in the industry and the trustee subsidiary *would comply with its legal and fiduciary duties. In the context of guarding against pension scams – an environment where providers and trustees clearly didn't always act as they should have done – I don't consider this to have been a prudent assumption nor was it one which looked after its customers' best interests.*

The fact that a different part of the Rowanmoor Group was regulated by the FCA also doesn't change my thinking on this. The key point is that Rowanmoor Trustees wasn't FCA-regulated so I see no reason why it would have operated with FCA regulations and Principles in mind – or why its actions would have come under FCA scrutiny. As such I am not persuaded Zurich could reasonably have derived sufficient comfort about the Rowanmoor SSAS as a destination for Mr B's transfer.

Nothing about Rowanmoor's standing or "pedigree" as Zurich has referred to it absolves Zurich of its duties under PRIN and COBS or acting in line with TPR's Scorpion guidance. The guidance put ceding schemes front and centre of scam and liberation prevention so the standing or perceived standing of the receiving scheme does not absolve a ceding scheme of its responsibility to act in line with PRIN and COBS and follow good industry practice and consider available guidance.

Given the information Zurich had at the time, one feature of Mr B's transfer would have been a potential warning sign of a scam: namely that his SSAS was recently registered (in July 2014). Zurich should therefore have followed up on this to find out if other signs of a scam were present. Zurich feels that the presence of this factor didn't oblige it to undertake further investigations and due diligence because the wording in the action pack was more suggestive rather than directive. I have already acknowledged the status of the Scorpion guidance above. However, the fact is a scheme being recently registered was listed in the Scorpion guidance as being a potential red flag for ceding schemes to look out for. And I don't think this could be ignored. I agree that the Scorpion guidance didn't specifically state a ceding scheme must act if any of the statements in the action pack applied. However, my view is that in fulfilling its duties under PRIN and COBS and given the aim to protect their customers and the limited information they had about this transfer, Zurich should have picked up on this and been prompted to look further into the transfer.

The most reasonable way of going about this would have been to turn to the checklist from the 2014 action pack to structure its due diligence in regard to Mr B's transfer. The checklist provided a series of questions to help transferring schemes assess the potential threat of a scam by finding out more about the receiving scheme and how the consumer came to make the transfer request. Some items on the checklist could have been addressed by checking online resources such as Companies House and HMRC. Others would have required contacting the consumer.

The checklist is divided into three parts (which I've numbered for ease of reading and not because I think the checklist 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 checklist listed actions that should help the ceding scheme establish the facts.

I don't think it would always have been necessary to follow the checklist 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 warning sign that should have been apparent when dealing with Mr B's transfer request, and the relatively limited information Zurich had about the transfer I think in this case Zurich should have addressed all three parts of the checklist and contact Mr B as part of its due diligence.

<u>What should Zurich have found out</u>

Under part 1 of the checklist, Mr B's scheme name obviously incorporated the name of the sponsoring employer (the part of the name ending with 'Ltd'). So by referring to Companies House, investigations would have revealed that the nature of the sponsoring employer's business was" dormant" and that it had been incorporated in July 2014, less than a month before Zurich received the request meaning the scheme was likely registered even more recently with Mr B as the only director. And had Zurich carried out this check it would also have seen that it was made up of his name and that the registered address was ROC's address.

So with this information, I think the sponsoring employer would reasonably have appeared to Zurich as a means to set up a SSAS, rather than a company that would actually trade. I'm not persuaded that Zurich had sufficient details here not to reasonably need to contact Mr B and request further information. And had it asked Mr B about his connection to the sponsoring employer, I can't see that Mr B would have been able to tell Zurich anything different.

Investigations under part 2 of the check list would have revealed that Mr B was attracted to the investment opportunities pitched to him, including overseas investments which were a potential concern under the action pack (and an overseas property development which was what Mr B was investing in, was one of the examples given in the action pack's case studies).

Under part 3 of the checklist investigations would have revealed that Mr B had been "cold called" initially. Zurich would also have discovered that he had been talking to a number of related firms about this transfer. I think Mr B would also have said that he had been advised to transfer to the SSAS, and when asked he would have named ROC as his adviser. I say this because firstly, the adviser fee agreement form completed at the time of the transfer records an individual from ROC as being Mr B's financial adviser in relation to the SSAS. So it seems likely that this is how the situation would have been presented to Mr B and therefore this is what he would have told Zurich had it asked him. Also, throughout making this complaint Mr B has stated that it was ROC who had advised him to transfer his pensions. Given he wasn't an experienced investor, and I don't think he would have been in a position to decide to transfer into a SSAS and do everything this entailed without advice

I find this assertion plausible.

I know Zurich believe that Mr B wouldn't have considered ROC to be his adviser but given the recorded details on the adviser fee agreement I see no rationale for Zurich's conclusion. The fee agreement indicates quite strongly that this is how it was explained to Mr B at the time and therefore that is most likely what he would have told Zurich had it contacted him. Whether ROC in actual fact enacted the setting up of the SSAS and/or only the setting up of the limited company for Mr B is irrelevant because what I need to consider is what would Mr B have told Zurich if it had asked him whether he was in receipt of financial advice. And because of how the situation seems to have been presented to him I think Mr B would have said the advice came from ROC. So my view is that Mr B would have considered ROC as being his adviser and therefore would have told Zurich this had it asked him.

To be clear, I haven't assumed Zurich actually had evidence Mr B was being advised by ROC. Rather, I've concluded this is what Zurich likely would have discovered if it had followed the Scorpion checklist to find out more about how Mr B came to request the transfer.

TPR's checklist recommends that in order to establish whether its client has been advised by a non-regulated adviser, the ceding scheme should "check whether advisers are approved by the FCA at www.fca.gov.uk/register". This is not a difficult step, and Zurich would have been able to quickly confirm that ROC was not regulated by the FCA.

Being advised by an unregulated firm (or individual) 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 campaign itself makes this point. This is to ensure they are suitably qualified, subject to Handbook rules that govern their advice, supervised and approved by the Regulator, and their client has significant protections by virtue of them being regulated. My view is that Zurich should have been concerned by the involvement of an unregulated adviser because it pointed to a criminal breach of FSMA. On the balance of probabilities, I'm satisfied such a breach occurred here. But in any event, Zurich should also have had wider concerns about the nature of this transfer as a result of its due diligence in line with the Scorpion action pack.

<u>What should Zurich have told Mr B – and would it have made a difference?</u>

Had it done more thorough due diligence, there would have been a number of warnings Zurich could have given to Mr B in relation to a possible liberation threat (that doesn't appear to have materialised, but that wouldn't have been known at the time) or other types of threat identified in the checklist such as non-standard, overseas, investments and recently registered SSAS. But the most egregious oversight was Zurich's failure to uncover the threat posed by a non-regulated adviser. Zurich's failure to do so, and failure to warn Mr B accordingly, meant it didn't meet its obligations under PRIN and COBS 2.1.1R.

With its obligations under the regulator's Principles and COBS 2.1.1R in mind, it would have been appropriate for Zurich to inform Mr B that the individual adviser he'd been speaking to was unregulated whereas only regulated financial advisers were allowed to give advice on personal pension transfers, so he risked falling victim to illegal activity. And that several of the features of his transfer echoed with the warning signs of a scam set out in the Scorpion guidance, as I've detailed above. Zurich should have said only authorised financial advisers are allowed to give advice on personal pension transfers, so he risked falling victim to illegal activity and losing regulatory protections.

This process of engaging with Mr B could have happened in real time, whilst Zurich was asking him questions about the investment and how he had come to make the transfer. That alone was in my view capable of causing him to change his mind. Or, if necessary, Zurich could have followed up its enquiries by making further contact with Mr B to set out its concerns. It could also have sent him the longer TPAS booklet or encouraged him to call TPAS's helpline.

I accept Zurich wasn't in a position to tell if this was actually a scam or not at the time. And I've set aside any questions of whether the investment involved the right level of risk for Mr B, because I accept it wasn't Zurich's role to assess this. But given the extent of the concerns it should in my view have had in this particular case, I don't think Zurich would have been able to discount the threat of a scam.

Yet Zurich did nothing at all here in terms of direct engagement with Mr B. Its failure to establish these risks and warn Mr B accordingly, meant it didn't meet its obligations under Principles 2, 6 & 7 and COBS 2.1.1R. I don't think giving such warnings would have been a Disproportionate response to the information that Zurich should have gathered, had it acted correctly.

I'm satisfied any messages along these lines would have changed Mr B's mind about the transfer. The messages would have followed conversations with Mr B so would have seemed to him (and indeed would have been) specific to his individual circumstances and would have been given in the context of Zurich raising concerns about the risk of losing pension monies as a result of untrustworthy advice. This would have made Mr B aware that there were serious risks in using an unregulated adviser. I think the gravity of any messages along these lines would prompt most reasonable people to rethink their actions. I've seen no persuasive reason why Mr B would have been any different.

So, I consider that if Zurich had acted as it should, Mr B wouldn't have proceeded with the transfer out of his personal pension or suffered the investment losses that followed. It's important to make it clear that while the investigator found Mr B wouldn't have changed his mind about proceeding with the transfer even if he had been sent the Scorpion insert, my reasoning is based on Mr B receiving more comprehensive information from Zurich which should have been provided to him given the warning signs present in the circumstances of Mr B's transfer.

Zurich feel that Mr B would have been reassured by the involvement of Rowanmoor – as he said when he spoke to the investigator. However, I don't agree. Rowanmoor might have been regarded by Mr B as a reputable provider, but Zurich was also a well-respected firm who Mr B had held his pension with for many years. Technically both Rowanmoor and Zurich could be seen as having an interest of keeping/acquiring Mr B as a customer. So I see no reason why Mr B would have ignored Zurich's warnings.

So on balance, I consider that if Zurich had acted as it should have and given Mr B appropriate warnings he would have heeded these and wouldn't have proceeded with the transfer out of his pension.

<u>What losses are Zurich responsible for</u>

I consider that if Zurich had acted as it should, Mr B wouldn't have proceeded with the transfer out of his personal pension to make the investments into the SSAS and the subsequent investments.

I appreciate that Mr B's investments from the SSAS took place between 2014 and 2017 and a different commercial property investment – Halcyon -was also involved.

Zurich contend that it would be unfair to hold it responsible for all the investments made by Mr B following the transfer of his funds away from Zurich regardless of when those investments were made. It feels this approach fails to account for the fact that the majority of the investments were made many months after the transfer of the funds. And it has stated that the fair way to reflect the "actual" and notional value should reflect that Zurich ought not to be considered responsible at all for later investments and only in proportion to its share of the total funds used to make the earliest investments.

However, I disagree. Three out of the four investments were into Dolphin. So I think that from the point Dolphin became a viable investment (as opposed to what was initially proposed) it seems to me that Dolphin continued to be the focus for placement of Mr B's transferred pension. I think but for the first investment into Dolphin the subsequent investments into Dolphin would likely not have happened. Also Mr B has confirmed that it was the same firm – ROC - who had advised him to make each of the investments into Dolphin as well as Halcyon and these subsequent investments came about because at that time the investment from Dolphin was making good returns so ROC continued to advise him of where and how to make his further investments.

So, it is my view that but for the transfer being actioned by Zurich in 2014 neither the investments into Dolphin or Halcyon likely would have taken place.

Therefore, I think it's fair and reasonable to hold Zurich responsible for any losses caused by all the investments made by Mr B in his SSAS, regardless of when they were made.
I also have to decide whether it is fair Mr B be compensated by Zurich for those losses (see section 229(2)(a) of FSMA). In doing so I have given thought to whether Mr B should bear some responsibility for the losses he has incurred. I take 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.

More specifically, the Law Reform (Contributory Negligence) Act 1945 allows for the apportionment of liability in the case of contributory negligence. It says that where any person suffers damage as the result partly of his own fault and partly of the fault of any other person, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable shall be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage.

My view is that Mr B doesn't bear responsibility for the losses he suffered. He transferred his pension because he listened to unregulated parties promising significantly higher returns than he was achieving. And crucially, Zurich didn't provide Mr B with any of the warnings it should have done at the time of the transfer. Nor did it give him any indication of what further steps he could take to protect himself when I think Zurich ought to have had concerns about what Mr B was doing and who was advising him. Furthermore, I don't think Mr B, acting reasonably, would have got a sense from any other sources that there was a need to act with further caution when transferring his pension.

I'd also like to be clear here that I've provisionally decided Mr B's complaint against his other pension provider who also transferred into the same SSAS and found a similar failure on the part of that different provider to take any of the expected steps to warn Mr B about the warning signs present in this transfer, in particular the risks of relying on unregulated advice. In the circumstances, my view is that Mr B wouldn't reasonably have known about these risks. I therefore don't intend to reduce Mr B's compensation.

Mr B's CMC accepted the findings of the second provisional decision and didn't provide any further comments.

Zurich didn't agree with the second provisional findings. It provided a detailed response, and I have summarised the most relevant comments below, grouping similar points together for ease of responding:

1. Mr B's adviser

Zurich has received a copy of a standard-form letter of authority (LOA) from ROC and it feels that if Mr B was working with ROC he would have received this letter.

This letter states that ROC was not regulated by the FCA and therefore was not authorised to give financial advice. It also states that ROC was "*not providing financial advice – they are collating information on my policies on my behalf*".

So in light of this, Zurich feels there is every reason to believe that ROC would have required Mr B to complete and return to them a letter in similar form. He was therefore (or ought to have been) aware that ROC were not his adviser and were not regulated.

2. Rowanmoor's standing

Zurich disagree with the finding that Rowanmoor Trustees Limited (RTL) would not have operated with FCA principals in mind. At the time of the transfer the four directors of RTL were directors of another regulated entity, and they were also themselves FCA regulated individuals.

The fact that RTL shared directors with a regulated entity that operated in the same field is a very significant reason to find RTL *would* have operated with FCA regulations and principals in mind.

RTL's actions would have come under FCA scrutiny, and the directors would therefore have been very aware that any impropriety in the course of exercising their duties for RTL could have been brought to the attention of the FCA if not fit or proper.

So as RTL were appointed as professional trustees Zurich and Mr B were entitled to expect that RTL would discharge those obligations.

3. Warnings from other ceding schemes

The provisional decision disclosed another of Mr B's schemes did provide pension transfer warnings and relevant links referencing the TPR and TPAS but dismissed this because Mr B received these after the date of completion of the transfer. But these were received over three weeks before he made his first Dolphin investment so he had plenty of time to reconsider his position.

4. Letters sent to Mr B by Rowanmoor

Mr B would have been sent very serious warnings by Rowanmoor prior to making his investments in Dolphin. He nevertheless made those investments not withstanding those warnings. That evidences that Mr B was not someone who was ever going to be prompted to rethink his actions whatever he was told.

The pre-investment warning letter included phrases such as high risk/no secondary market/must have no need for liquidity when referring to making the investment into Dolphin.

A copy of this letter was sent to investors, including Mr B in advance of each investment into Dolphin. The communications also included a declaration the investor had to sign confirming understanding there were risks inherent in the proposed transaction. So it can be seen that Rowanmoor provided specific targeted warnings to members about the investments before those investments were made. So Mr B should have properly considered the very serious warnings within the pre investment warning letter. However, the warnings appear to have had no effect on Mr B. So as Mr B ignored the clear and repeated warnings about the very specific investments he was making into Dolphin there is no rationale to say he would have heeded warnings from Zurich.

5. Contributory Negligence

Zurich doesn't agree with the finding that Mr B doesn't need to be considered to have contributed to his own loss. It says the provisional decision only considered Mr B's decision to transfer into the SSAS but didn't account for the onward investments Mr B made.

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.

I've taken into account relevant: law and regulations; regulatory rules; guidance and standards; codes of practice; and (where appropriate) what I consider to have been good industry practice at the relevant time.

Where the evidence is incomplete or inconclusive, (as it is here), I've reached my decision based on the balance of probabilities – in other words, on what I think is more likely than not to have happened given the available evidence and wider circumstances.

1. Mr B's adviser

I acknowledge what Zurich has said about the LOA from ROC, however I have not seen a copy of this in all the information I have been provided so I can't be certain Mr B did in fact receive it or that he signed it.

In any event, I don't think that even if Mr B had been provided with and signed this document that this would have meant much to Mr B. He was inexperienced in this field so it's reasonable he wouldn't have understood the implications of receiving unregulated advice.

Furthermore, even though the LOA might have said ROC weren't giving advice, that doesn't mean they didn't recommend the transfer and investments. And as set out in my provisional decision I am persuaded that Mr B reasonably thought he was receiving advice from ROC
I say this because:

a) Mr B's circumstances indicate to me that he was guided towards this process and the subsequent investment. This was a complicated arrangement which involved transferring out of his existing pension, setting up a new company and opening a SSAS in non-standard investments. So think it's more plausible than not that he was recommended to make the investments that he did.

b) The adviser fee agreement form completed at the time of the transfer records an individual from ROC as being Mr B's financial adviser in relation to the SSAS. So it seems likely that this is how the situation would have been presented to Mr B and therefore this is what he would have told Zurich had it asked him.

Its also worth reiterating the point that whether ROC in actual fact enacted the setting up of the SSAS and/or only the setting up of the limited company for Mr B is irrelevant because what I need to consider is what would Mr B have told Zurich if it had asked him whether he was in receipt of financial advice. And because of how the situation seems to have been presented to him (as described immediately above and in my provisional decision) I think Mr B would have said the advice came from ROC. So my view is that Mr B would have considered ROC as being his adviser and therefore would have told Zurich this had it asked him.

2. Rowanmoor's standing

As set out in the provisional decision my view is that ceding schemes should not have generally relied on the presence of a professional trustee in place of their own checks. SSAS trustees and administrators were not regulated by the FCA and owed fewer responsibilities to their customer. They were not bound by PRIN and COBS and were not therefore held to the same standards.

Ceding schemes had an important role to play in protecting customers wanting to transfer a pension. The Scorpion guidance recognised they were a "buffer" between their customer and the potentially unscrupulous parties (which may have included receiving schemes) with a vested interest in a transfer proceeding. My view is that it would have defeated the purpose of the guidance for a ceding scheme to have, in effect, delegated that important role to a different business – such as Rowanmoor – because of what that business *should* have been doing.

The fact that the Rowanmoor Group included entities, and personnel, that came under FCA regulation doesn't change my view given SSASs didn't come under FCA regulation. Indeed, SSASs were sometimes used as a vehicle for inappropriate transfers for that very reason. And *assuming* how a receiving scheme's trustees would act doesn't strike me as being prudent in an environment where trustees didn't always act in accordance with their responsibilities – if they did, there wouldn't have been a need for the Scorpion guidance in the first place, or a need to encourage ceding schemes to take a more prominent role in the transfer process.

3. Warnings from other ceding schemes

As set out in my provisional findings Mr B did receive some transfer warnings from the providers of his other pensions that he was also transferring at the same time, to the same SSAS. However, contrary to Zurich's response, I dismissed these warnings not just because they were sent after the transfer but mainly because they were concerned with pension liberation only rather than being about wider pension scams. So given Mr B wasn't liberating his pensions I think it's unlikely these would have resonated with him.

4. Letters sent to Mr B by Rowanmoor

In response to the provisional decision Zurich has provided copies of standard letters Rowanmoor sent to its investors from around the time Mr B made his investment. The copies are from March 2014, July 2015, September 2015 and as stated above, Zurich's argument is that as Mr B still proceeded with the investments despite the risk warnings, it means he likely would have ignored any warnings given by Zurich.

In the information I have been provided, specific to this complaint, in relation to the investment into Dolphin it appears that Mr B only received a letter from Rowanmoor dated 11 September 2014 which set out the risks posed by the Dolphin investment. The letter pointed out that the investment carried a high risk, was speculative and there was no recognised secondary market for the investment. It said the investor must have no need for liquidity and must be able to withstand a total loss of investment. It also said the loan notes were non-transferable and the investment wasn't regulated by the FCA and so he had no protections under UK financial services regulatory systems. And it recommended that Mr B take "appropriate legal and financial advice". Mr B signed the letter on 12 September 2014 to confirm his understanding of the risks of the transaction. He was also sent another letter in July 2015 in relation to the investment into the French property which was very similar to the letter from September 2014 and contained many of the same warnings.

I agree these letters did give Mr B some warnings about the investment risk ahead of investing. However these warnings were focused on the investment alone and the risk posed by it. They didn't discuss (as Zurich should have been doing) any warnings signs of a pension scam which were present in Mr B's transfer and in particular its concerns that Mr B was relying on untrustworthy advice.

I think the essence of the warnings that Rowanmoor provided and the warnings Zurich should have provided were very different. I return to the point I made previously which is that Zurich should have warned Mr B about the risks of scams and the role played by ROC and the potential for him to fall victim to illegal activity. Such a warning would have been of a different order of magnitude to the warnings given by Rowanmoor, to the extent that I'm satisfied Mr B's actions in ignoring the Rowanmoor warnings aren't indicative of how he would have behaved had Zurich acted as it should have done. As I explained in my provisional decision, as well as earlier in this decision, I think ROC advised Mr B to transfer into a SSAS and make these investments. So I am mindful that any such advice was likely to be in favour of Mr B making the investment in his SSAS, despite any potential investment risks ROC may have mentioned and that Rowanmoor subsequently outlined to him. Given the commercial interest of unregulated parties persuading customers to invest into such kind of unregulated investments which were unsuitable for most retail customers, I also think it is likely any risks were downplayed when recommending the investments.

I also doubt that some of the warnings from Rowanmoor would have been new to Mr B nor would they have concerned him. For example, the loan notes themselves were clear that they were not transferable and that they would not mature for five years, so Mr B wouldn't have expected those investments to be liquid. He would have been expecting to tie the money up for five years at which point he could redeem them.

Overall, I don't think generic risk warnings from Rowanmoor would have outweighed any advice he had personally received from ROC.

I do, however, think it's likely that the letters could have carried more weight if Zurich had told Mr B about the risks of accepting advice from an unregulated adviser.

I think for most reasonable people, learning that their adviser was acting unlawfully in the very act of advising them, would cause them to re-examine their situation, the adviser's recommendations and their relationship. I think that's the case even where the consumer and their adviser had established a rapport and an element of trust between them. And it's likely that, in those circumstances, the consumer involved while re-examining their situation would look again at the warning they'd received and reconsidered whether their adviser was trustworthy and indeed that the further advice Rowanmoor had recommended they take was now vital.

In that context, I think Rowanmoor's warning letter - when considered alongside an understanding that the firm or individual who recommended the investment is acting unlawfully - would carry far more weight. But in this case, Zurich didn't give Mr B a reason to be concerned about the actions of his adviser.

Furthermore, the Rowanmoor letters did say that Mr B should take appropriate advice. But Mr B's understanding was that he had already taken appropriate advice – from ROC. Rowanmoor had accepted ROC as the SSAS's trustee adviser and no-one had warned him of the dangers of taking advice from an unregulated adviser. So, from his perspective, he'd done what he needed to do and accepted the recommendation of someone he trusted. He had no reason at that time not to trust the adviser. I think a warning from Zurich about the adviser's regulatory status would have caused Mr B to lose that confidence.

My findings, as set out in the provisional decision are that Zurich should have informed Mr B about the risk of pension scams and that the firm he had been advised by was unregulated and could put his pension at risk and that only authorised financial advisers are allowed to give advice on personal pension transfers. So it appeared he was in receipt of illegal advice and he risked falling victim to illegal activity and losing regulatory protections. In my view these warnings are of a different magnitude than the warnings from Rowanmoor about the investment into Dolphin. So much so that I am satisfied that Mr B's actions in "ignoring" the Rowanmoor warnings are not indicative of how he would have behaved had Zurich done what it should have done.

5. Contributory Negligence

Contrary to what Zurich has said, the provisional decision does take account of the onward investments that Mr B made following the initial transfer. I explained that Zurich didn't give him warnings about the unregulated adviser Mr B was dealing with. If it had done so Mr B likely wouldn't have transferred his pension nor made later investments which were also recommended by ROC. Without those warnings I don't think Mr B had any reasons to distrust his advisers when they recommended further investments after the transfer. So in the circumstances I don't think it's fair or reasonable to hold Mr B responsible for any of the losses he suffered from the investments in the SSAS.

Overall therefore, for the reasons already set out in my provisional findings and those set out above I remain of the view this complaint should be upheld.

Putting things right

Fair compensation

My aim is that Mr B should be put as closely as possible into the position he would probably now be in if Zurich had treated him fairly.

The SSAS only seems to have been used in order for Mr B to make an investment that I don't think he would have made from the proceeds of this pension transfer, but for Zurich's actions. So I think that Mr B would have remained in his pension plan with Zurich and wouldn't have transferred to the SSAS.

To compensate Mr B 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.

Actual value

This means the proportion of the SSAS value originating from Mr B'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. Mr B may be asked to give Zurich his authority to enable it to obtain this information to assist in assessing his loss, in which case I expect him to provide it promptly.

My aim is to return Mr B to the position he 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. On the basis of the evidence I have, that is likely to be the case with the following investments: Dolphin and Halcyon. This is because we know the investments have failed to the extent that its reasonable to say at this point that investors – Mr B included – are unable to realise a value for them. 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 the loss originating from a transfer in of the Zurich funds.

Therefore as part of calculating compensation:

- Zurich must give the illiquid investments a nil value as part of determining the actual value. In return Zurich may ask Mr B to provide an undertaking, to account to it for the relevant proportion of the net proceeds he 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 Mr B to provide this undertaking, payment of the compensation awarded may be dependent upon provision of that undertaking.

- It's also fair that Mr B should not be disadvantaged while he 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 Mr B equivalent to 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 Mr B's funds had he 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 Mr B 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 Mr B's dissatisfaction with the outcome of the investment it facilitated.

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

Zurich shouldn't reinstate Mr B'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 Mr B's pension and it is open to new business, it should set up a **new** pension plan with a value equal to 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 Mr B'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 Mr B is entitled based on his 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 Mr B doesn't incur an annual allowance charge. If Zurich cannot do this, then it shouldn't set up a new plan for Mr B.

If it's not possible to set up a new pension plan, Zurich must pay the amount of any loss direct to Mr B. 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 Mr B is retired. (This is an adjustment to ensure that Mr B isn't overcompensated – it's not an actual payment of tax to HMRC.)

To make this reduction, it's reasonable to assume that Mr B is likely to be a basic rate taxpayer in retirement. So, if the loss represents further 'uncrystallised' funds from which Mr B was yet to take his 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 him in cash.

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

If payment of compensation is not made within 28 days of Zurich receiving Mr B'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 Mr B how much has been taken off. Zurich should give Mr B a tax deduction certificate in respect of interest if Mr B asks for one, so he can reclaim the tax on interest from HMRC if appropriate.

This interest is not required if Zurich is reinstating Mr B'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 Mr B was invested. However, I expect any such reinstatement to be achieved promptly.

Details of the calculation must be provided to Mr B in a clear, simple format.

My final decision

My final decision is that I uphold this complaint. Zurich Assurance Ltd must redress Mr B as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 January 2025.

Ayshea Khan
Ombudsman