October 2013

Report under s89 of the Pensions Act 2004

Issued by **The Pensions Regulator ('the regulator')** in relation to **MF Global.**

Background

On Monday 31 October 2011, MF Global UK Limited ('MFGUK') – a UK based broker-dealer business – and MF Global UK Services Limited ('Services') – which provided employee and pension services for the UK operations of the MF Global group – went into administration. MFGUK is a subsidiary of MF Global Holdings Limited which filed for Chapter 11 bankruptcy protection on the same date.

The group operated a defined benefit pension scheme in the UK, the MF Global UK Pension Fund (the 'Scheme') which had a deficit of around £35 million pounds on a buy-out basis at the time of the group's insolvency. The principal (and only) employer under the Scheme was Services and as a result of Services' insolvency the Scheme entered the PPF assessment period following the employer's insolvency.

The Pensions Regulator

Regulatory action

Shortly after the group's insolvency, the regulator began an investigation to determine whether it would be appropriate to issue a Financial Support Direction (FSD) under section 43 of the Pensions Act 2004 to MFGUK and other entities within the MF Global group. The regulator made enquiries of the trustees of the Scheme, MFGUK's special administrators, KPMG and others and on the basis of its investigation considered that formal proceedings should be issued in relation to MFGUK. A warning notice was drafted, alerting directly affected parties that the regulator's Determinations Panel may be asked, in due course, to consider whether to issue an FSD to MFGUK.

It was the regulator's intention to issue this warning notice to the directly affected parties on or before 30 October 2013. Parallel to the regulator's investigation, the trustees of the Scheme entered into discussions with special administrators KPMG to reach an early settlement of their claim against the group. Both parties were fully aware of the regulator's investigation and its intention to issue a warning notice.

Outcome

On 16 October 2013, the trustees and KPMG announced that they had reached a settlement as a result of which a significant payment was made into the Scheme. With this payment, the trustees were able to secure a buy-out with an insurer and the Scheme will now wind up outside the PPF. This settlement means that members will now receive benefits broadly equivalent in value to those that they had been promised before MFGUK went into administration. In light of this settlement, the regulator considers that it would now not be appropriate to issue its warning notice making the case for an FSD against MFGUK.

General

The regulator is pleased that the trustees and KPMG have reached an agreement as a result of which members' benefits are secure. The regulator has always actively encouraged directly affected parties to potential enforcement action to liaise with each other to explore whether matters might be resolved without the need for formal regulatory action. This case shows that the regulator's moral hazard powers can prove influential in bringing about a settlement.

For more information on how we carry out determinations, go to: **www.tpr.gov.uk/regulate-and-enforce/determinations.aspx**

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