



SIPP providers – What's next?

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Last week the FCA issued a Dear CEO letter to SIPP operators. The letter is one of many the FCA has sent as follow-ups on the consumer duty (including the most recent letters to lifetime mortgage providers) and is a must read for those in the SIPP sector. The letter highlights the FCA's focus areas of ensuring redress is paid (where the FCA does not consider sufficient progress has been made), "outlier firms" when it comes to holdings in non-standard assets, and implementation of the consumer duty, particularly around distribution strategies/identifying target markets.

The [Dear CEO letter](#) notes that the FCA completed its SIPP data request in July 2024 and will be proactively engaging with firms through a rolling series of visits over the next year to assess and ensure that its expectations as set out in May 2023 (just ahead of the consumer duty implementation) are met (see our previous blog for the May 2023 letter [here](#)). Of interest are the stats around the assets under administration across the SIPP operator portfolio, which are said to be £184bn (up from £130bn in 2022) and a notable increase in assets under administration on platform based SIPPs. It is understood that across the various SIPP structures/platforms there is a total of £567bn assets under management for c. 5.3m customers – so a lot to play for.

Non-standard assets now stand at around 1.57% of total assets (down from 2% in 2022). Non-standard assets have of course caused issues for SIPP providers over the last decade or so, highlighted by high profile decisions going against SIPP providers such as the Berkeley Burke FOS judicial review, *Adams v Options* and the FOS Rowanmoor decision, and also leading to the financial difficulties for a number of SIPP providers including Hartley Pensions and Berkeley Burke. Further, "new" non standard assets are said to be focussed in more secure asset types such as fixed term deposits. This is perhaps a reaction to decisions and the focus of CMCs on this area, but perhaps also a fact that since 2016 the capital adequacy rules have made it more difficult for SIPPs to hold non-standard assets from a commercial perspective. But there is an incentive to make sure as a SIPP provider you are not overly loaded with non-standard assets with the FCA threatening to target "outlier firms".

The core part of the letter then sets out the FCA's expectations of firms on a number of topics:

- **Redress** – the FCA is clearly frustrated with complaints at FOS that have not been resolved (with reference to 800 open complaints with some over 24 months old – not exactly the 10,000 plus about car finance but still a bee in the FCA's bonnet).

The FCA references the Options FOS judicial review from earlier in the year (heard by the Court of Appeal) and that firms should take action under the consumer duty to resolve complaints as quickly as

possible. This raises two issues (1) the retrospective nature of the consumer duty through the lens of redress and (2) the fact that the FCA sees all SIPP provider complaints as one and the same without considering the nuances between complaints or other issues such as time bar, FSCS assignment issues or other jurisdictional issues that all validly lead to complaints being defended at FOS.

- **Trustee bank accounts** – the letter highlights that there are growing concerns that trustee bank accounts are not being operated with adequate controls or oversight and that books and records are not being appropriately maintained and updated. The FCA expects firms to review their controls and ensure adequate senior management oversight.
- **Consumer Duty** – in a follow-up to the FCA's October publication which referenced ongoing reviews of 10 SIPP operators when it came to fair value (see our previous blog [here](#) and which likely includes issues around double dipping), the FCA's letter confirms that it has now reviewed 19 SIPP operators and notes that, for some, additional work or improvement is needed. Areas of concern highlighted include – (1) SIPP operators not being clear around a distribution strategy as they "sell" a product when they grant rights under a person pension scheme, (2) failing to identify a target market at a sufficiently granular level, (3) over-reliance on third parties when it comes to ensuring communications are understood by clients and (4) not adequately implementing the consumer duty when it comes to closed products and services (which came into force from 31 July 2024).

As noted, the FCA is publishing a range of letters at the moment for different FCA regulated sectors identifying issues around the consumer duty and seemingly as part of that review identifying wider issues. The SIPP industry is no different in this respect. The positive point to note from the letter is that we are hopefully seeing the tail end of SIPP provider FOS complaints (which, as already alluded to, are a drop in the ocean compared to other sectors) with ever decreasing non-standard assets held in SIPPs. However, with the consumer duty comes more responsibility and with that potentially more risk. In particular a further basis perhaps to argue that the SIPP provider should be acting as policeman when it comes to checking on whether advisers are recommending a SIPP that is suitable for a customer – this is because all entities within the distribution chain are now responsible for each other and so perhaps another reason to say that (at least before FOS) a SIPP provider should reject customer business even if that business is recommended by a suitable qualified financial adviser.